

LAW SOCIETY Gazette

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A satellite image of a large storm system over the British Isles. The storm is a well-defined cyclone with a clear eye and spiral cloud bands. The landmasses of the UK and Ireland are visible in green and brown, contrasting with the blue of the ocean and the white of the storm clouds.

STORMWATCH

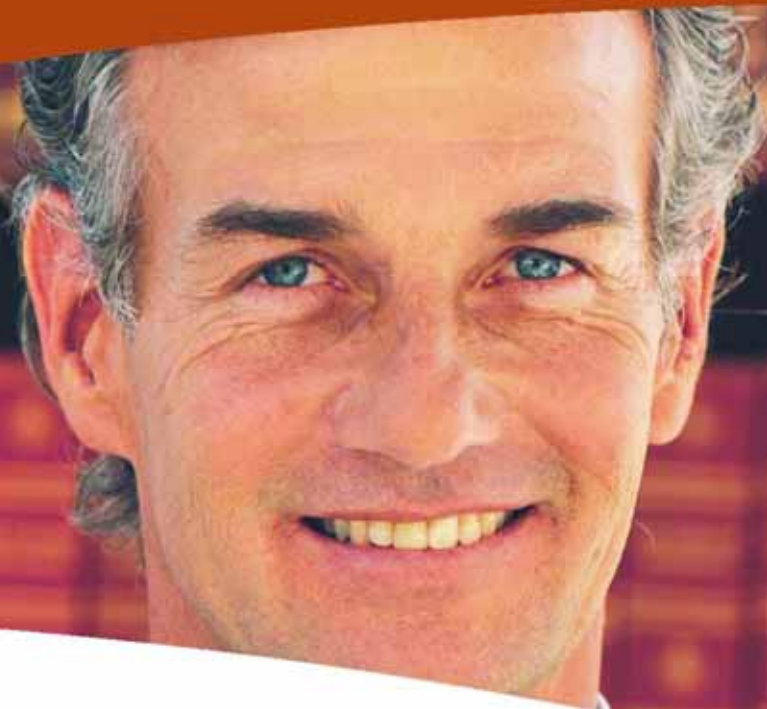
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mean for solicitors?



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On the cover

Some prophets of doom are forecasting stormy weather for the Irish economy, but whether the downturn comes or not, prudent solicitors should be planning ahead for ways to weather any storm

PIC: GAZETTE STUDIO



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Since January, building energy rating (BER) certificates are required for dwellings that have applied for, and been granted, planning permission. These certificates are now an essential part of conveyancing. Brenda Jordan fits the insulation

42 Kerry's eye

They have some strong views on CPD, the state of the legal profession and the role of its representative and regulatory body down in Kerry. Colin Murphy takes a tour of the Kingdom

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The Property Registration Authority

An tÚdarás Clárúcháin Maoine

Digital Mapping Project – Notice for Customers

In addition to the information which is now available for all counties, parcel boundary data for counties Longford, Carlow, Meath, Kilkenny, Westmeath, Wexford and Clare is now available online for inspection through www.landdirect.ie and is also being used for processing applications for registration. Transitional arrangements have been put in place in relation to the use of Filed Plan maps for registration purposes in these counties. As already notified only

- 'ITM Filed Plan' maps produced by the PRA or
- 'OSi Land Registry Compliant Map' with ITM co-ordinates shown on the upper right corner and the lower left corner, produced by Ordnance Survey Ireland or
- Computer Generated Maps (OSi licensed) displaying ITM co-ordinates

are now acceptable for registration purposes in respect of counties Longford, Carlow, Meath, Kilkenny, Westmeath and Wexford. Filed Plan maps issued from our paper map base will continue to be accepted for applications lodged for a 3-month period after the completion of digitization of the boundary data in each county. Accordingly Filed Plan maps issued from our paper map base for County Clare will be acceptable for registration purposes up to the 1st of February 2008.

Similar transitional arrangements will apply for each county as the vector boundary data is made available. Regular updates will be published on our website www.prai.ie as counties are completed and we will continue to notify customers accordingly.

Work is now underway on the conversion process for counties Louth, Wicklow, Roscommon and Dublin, and counties Sligo, Kildare, Cork, Cavan and Limerick will follow during 2008.

Considerable efforts have already been made to communicate this change to practitioners and, as previously advised, we are available to provide briefing sessions to Bar Associations. If you wish to arrange such a seminar, please contact Peter McHugh at 01 804 8011 or peter.mchugh@prai.ie

Visit PRAI.ie
or landdirect.ie for latest information



The online service of the
Property Registration Authority

Adding value to all we do

As solicitors, we need to find new ways to bring added value to what we do. The development of a website for a firm is a good starting point. Having entered into such a project, the trick is to keep it up to date. If you survey the existing sites of legal firms here and in Britain, you will find many offering online services such as quotations or help with will-making. Many of these ideas are quite new and would have been considered unthinkable a few years ago. We give a quotation when a client comes to see us. A client-friendly website might well perform the same function. If solicitors put themselves in the shoes of the client, then being informed of a firm's range of services without having to experience the 'hard sell' must be an attractive feature. Everyone is a winner in this situation. The lawyer gets to present the information in an attractive format, and on his terms, while the potential client can assess the information in an unpressurised way and make an informed decision.

Speaking of potential clients, I would like to remind colleagues of their continuing obligations under the *Money Laundering Acts*. Put simply, you must obtain evidence of your client's identity, retain it for five years and observe carefully the regulations as you complete various transactions on the client's behalf.

Alternatives to court

In matters that can be deemed contentious, we ought to consider ways of offering methods of alternative dispute resolution. Everyone is agreed that nearly any alternative is better than having a dispute resolved in court. There are, in fact, two sides to this argument. If courts are seen to be slow, cumbersome, expensive and detrimental to the relationship between the parties, then perhaps it is time for the courts to set about addressing this issue. For the 'insoluble problem', there is no other solution but court proceedings. However, just as solicitors can provide alternatives to court

proceedings, it might also be a good idea for the courts to examine ways of enhancing the services they offer to the public. This is apart from sending matters to arbitration or mediation.

For too long, people have adopted particular stances in commercial or family matters that are not conducive to reaching a final solution. This has given rise to situations in court pleadings where outlandish claims can be made, or defences delivered that deny all matters. This still goes on and has a detrimental effect on the entire proceedings.

Arbitration centre?

In 2008, an international arbitration conference will be held in Ireland. This conference has been underwritten by the Bar – and the Law Society will have a significant involvement in it. It represents an opportunity for the legal profession as a whole to increase the profile of Ireland as an arbitration centre, which we should embrace enthusiastically. I would urge colleagues to source and complete courses in arbitration, mediation and collaborative law. Attaining these skills will help to offer an increased range of services to your clients. In the majority of civil disputes, the issue is not only a matter of law, but one of negotiation and compromise. The polarising effect of a court case can be avoided with the sensible use of these alternatives. The more we can extend the range of services we offer – while remaining true to our core work as legal advisors – the better it will be for our clients and ourselves. **G**

Philip M Joyce
President



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■ DUBLIN

The DSBA conference in Ashford Castle, Cong, Co Mayo, proved a resounding success for the 100 or so delegates who attended. The venue and event had to be put together with some haste after the first-choice venue of Bordeaux (coinciding with the rugby) had fallen through.

The business session drew on the fact that the Rugby World Cup final was taking place, so the 'Sport and the Law' theme was entirely appropriate. Limerick-born Ian Lynam, from Charles Russell in London, kicked off proceedings and took us through the legal issues associated with acting (as he does) for Arsenal FC. Sarah O'Connor, chief executive of Just Sport Ireland (a facilitator for the mediation of disputes among sporting participants), explained how JSI will operate and welcomed the participation of lawyers on the arbitration panel.

Engaging presentations were also made by the DSBA sponsors, Michael Benson of Benson & Associates, John Mulholland of Custom House Capital, and a representative from LexisNexis. Then came the 'graveyard slot'—or so we thought. Pádraig Ó Ceidigh, founder of Aer Arann, got a phone call the previous night from DSBA president David Bergin. We had been stuck as a result of our guest speaker pulling out. "Would Pádraig speak for ten minutes?" "No problem", said the Spiddal man, who then travelled up from deepest Connemara to be with us.

When Pádraig came on stage, he duly dispensed with both podium and microphone. His 'ten-minute' presentation lasted just short of two hours! On several occasions, he did his best to wind matters up, but such was



Ashford Castle, Mayo: venue for the DSBA conference in October

the enthusiasm with which his message was received that what might be seen as a stereotypical, cynical, deadpan group of lawyers was somewhat awestruck and spellbound by this hugely engaging and charismatic 'Mr Motivator'. When Pádraig was finally allowed to conclude his talk, we all rose as one and gave him a standing ovation!

■ MAYO

The AGM of the Mayo Bar Association was held recently. Pat O'Connor has begun his second year at the helm, ably assisted by Dermot Hewson (Ballina) as his vice-president, Catherine Bourke (Ballina) as the new secretary – in succession to Garret Bourke, who has taken a breather after a very successful stint in that position – and Edel McCool (Castlebar) as treasurer.

On other matters, it is good to hear that the threat to the future of the District Court Office in Ballina may have abated for the moment, but practitioners remain ever vigilant. Pat O'Connor has also advised that, as a result of a national

rationalisation of District Court areas, Mayo may end up as one district, save for Charlestown, which may be ceded to Tubbercurry. Some practitioners will see this as an improvement on the existing situation, as clashes of District Court sittings, such as occur in Kiltimagh and Charlestown/Claremorris and Achill/Castlebar and Ballyhaunis, may be lessened.

Practitioners are hugely looking forward to the forthcoming dinner dance in the Mount Falcon on 8 December. It's a first for this splendid venue and also, I believe, for the event to occur on a Saturday, which will suit day trippers better than the traditional Friday! The hotel can cater for up to 180 guests. Practitioners wishing to go should contact Samantha Geraghty, Caroline Barry, Marc Loftus, Paul Cunney, or Catherine Bourke.

■ CORK

The SLA's AGM was held on 1 November and details will follow as to the composition of the new SLA council, with the

expectation of a return for Raymond 'Rambo' O'Neill, who served as president in the 1980s. On the sporting side, SLA President Eamonn Harrington tells us that the Bar is hopeful of avenging its defeat in the Cricket Perpetuities Cup. The mother of all grudge matches is to take place on 30 November and all are welcome.

■ LASBA

It was good to get a briefing from Eddie Hughes, chairman of the Local Authority Solicitors' Bar Association. Eddie was reacting to a piece here last month that wondered which bar associations around the country had websites. The LASBA website has been operating now for a number of years – www.lasba.ie. So, as always, 'Nationwide' would be delighted to hear from other associations that have similarly started their own sites.

■ TIPPERARY

Such is the activity going on throughout the ridings that the TSBA's David Hodgins tells me they are contemplating the appointment of a coordinator to manage all the various endeavours that John Joy, Ronan Kennedy and Maura Derivan have to progress. While Dublin has established its own offices with permanent staff, Tipperary is finding that the sheer distances involved create logistical issues for the association in organising events. One of the future projects being contemplated, David tells us, is the possibility of a website to ease the information flow. **G**

'Nationwide' is compiled by Kevin O'Higgins, principal of the Dublin law firm Kevin O'Higgins.

■ HUMAN RIGHTS ESSAY PRIZES

The Human Rights Committee has announced the winners of the first Trainee Solicitor Human Rights Essay Prize 2007. First prize has been awarded to Tanya Moeller for her essay 'Electronic Monitoring in Criminal Procedure and the Rights to Privacy'. Joint winners of the second prize are Orla Veale Martin for 'An Evaluation of the Use of Memorandums of Understanding in Deportations and the Prohibition against Non-Refoulement', and Jean Tomkin for 'Orphans of Justice'.

■ RETIREMENT TRUST SCHEME

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■ IHRC HUMAN RIGHTS LECTURE

'Current Challenges in Implementing Human Rights in Europe' is the title of this year's IHRC annual human rights lecture. The address will be given by Thomas Hammarberg, commissioner for human rights of the Council of Europe. The event takes place at the National Gallery, Merrion Square West, Dublin 2, on 26 November at 6pm, and will be followed by a reception. RSVP: Aileen Damery (IHRC) on 01 858 9635 or at adamery@ihrc.ie.

■ GREEN CARD RULES CHANGE

Researchers from outside the European Economic Area will be able to travel to Ireland to conduct research without the need for a work permit or green card under new arrangements announced by the Department of Enterprise, Trade and Employment. The new arrangements implement a European Union directive on the admission of 'third-country' researchers for the purpose of carrying out research.

'Freezing orders' granted against two solicitors

The Law Society has secured, from the President of the High Court, orders freezing the bank accounts of two solicitors – Michael Lynn, a solicitor practising as Capel Law, and a second Dublin-based solicitor who cannot be named by the Society at the time of going to press.

On Wednesday 10 October 2007, the Society successfully applied to the President of the High Court for a 'freezing order' and other related orders against Michael Lynn, a solicitor practising as Capel Law, Unit 5, The Capel Buildings, Mary's Abbey, Dublin 7. The effect of the court orders are:

- To prevent any payment out of any bank account in the name of the solicitor or associated companies, and
- To prevent the solicitor from disposing of any assets in his possession or control, including those of associated companies.



The President of the High Court
Richard Johnson

The Law Society is currently investigating the practice and, on Monday 15 October 2007, Michael Lynn gave an undertaking to the President of the High Court not to practise. Clients have been advised that the practice has now closed.

The Law Society regrets any disruption to the business of clients that the closures may

cause. The Society is prohibited from making any comment about these matters at this time.

The Society is removing clients' files for safekeeping and will be writing to all current clients to inform them of the closures.

Clients should now instruct a new solicitor to take over their business and should let the Law Society know the name of their new solicitor in due course. The Law Society will arrange to send clients' files to the new solicitor.

Any client who has any queries relating to their file should contact the Practice Closures Section of the Law Society, whose staff will be pleased to assist clients. The contact details are: Practice Closures Section, Law Society of Ireland, 33 Manor Street, Dublin 7; tel: 01 868 1220, fax: 01 868 1232, email: closures@lawsociety.ie.

Why consider Community Foundation?

Solicitors are regularly asked by clients, especially when estate-planning or drawing up wills, how they can most effectively contribute to worthy causes, writes *Jacinta Morris*. One charity worth considering is The Community Foundation for Ireland, which was established in 2000 with the support of government and the business sector.

The foundation operates as a donor service and grant-making organisation, of which President Mary McAleese is patron.

The aim of the foundation is to build a civic, independent, permanent endowment fund where grants from the invested income will support grassroots voluntary



President McAleese, patron of the foundation

groups and the communities they serve – in perpetuity.

The foundation is a not-for-profit organisation with charitable status, and is an approved body for the purposes of section 848A, *Taxes Consolidation Act 1997*.

It regularly works with

solicitors whose clients may seek a more strategic and innovative approach when considering making donations – either immediately or as part of their estate-planning or will. The advisors' section on the website provides a useful resource for solicitors: www.communityfoundation.ie/advisors.

As Ireland's needs evolve and change, the foundation is committed to redirecting its programme to respond to the most pressing needs.

If you feel that you can assist, you should contact The Community Foundation for Ireland, 32 Lower O'Connell Street, Dublin 1; tel: 01 874 7354 or email: info@foundation.ie.

New eConveyancing Project manager

The Law Society has appointed Gabriel Brennan as its eConveyancing Project manager, effective from 1 September 2007. The newly-created position reports to deputy director general Mary Keane within the Policy, Communications and Member Services Department.

Gabriel's appointment reflects the importance placed by the Society on the eConveyancing Project, which is being advanced by the Law Reform Commission on behalf of government. As a key staff member, she will work to ensure an active engagement by the Society in the consultative process and the continued recognition of the pivotal role of solicitors in e-conveyancing, which is set to become more and more prominent in the future.

Active engagement

In her new role, Gabriel will actively engage with all stakeholders in the conveyancing process with the aim of achieving a common ground. With the eConveyancing Task Force, she will research and draft a Law Society ePlan. This will provide the opportunity to re-engineer and redefine the entire process for the benefit of practitioners and other stakeholders. Her role will involve assessing the opportunities and challenges ahead, and informing practitioners about impending changes – including assisting and supporting practitioners to adapt to any new processes and procedures. She will co-ordinate Law Society policy in this area with the aim of maintaining and enhancing the key role of solicitors in conveyancing.

She is keen to hear from practitioners or other



Gabriel Brennan

interested parties about their thoughts on the move towards a system of electronic conveyancing. In particular, she wants input from practitioners about the first two elements of electronic conveyancing likely to be implemented. These are the Revenue Commissioners' e-stamping project, which will allow practitioners to calculate and pay stamp duty online and then print off a certificate,

verifying payment, and the Property Registration Authority's e-release project, which will allow the electronic release of registered charges.

eConveyancing Task Force

Gabriel is secretary to the Law Society's eConveyancing Task Force, established in 2005. She has been a member of the Conveyancing Committee since 1998 and is also a member of the Law Reform Commission's eConveyancing Steering Group and the Property Registration Authority's eRegistration Project Board.

She qualified as a solicitor in 1996 and practised with Abercorn Solicitors prior to joining the Education Department of the Law Society in September 1997. She holds a BA in history and politics from UCD, a diploma

in legal studies from the College of Commerce Rathmines and an LLB from the University of London. During her ten years with the Education Department, she obtained a postgraduate certificate and diploma in third level learning and teaching from the DIT and an MLitt in land law from Trinity College.

She is co-editor and co-author of the Society's *Conveyancing Manual*, of the *Landlord and Tenant Law Manual* and of the new *Complex Conveyancing Manual*. She has published articles on e-commerce, electronic conveyancing, vesting certificates and is author of *Ground Rents: A Practitioner's Guide*, published by Thomson Round Hall.

Gabriel can be contacted at g.brennan@lawsociety.ie or 01 672 4800.

Advocate General of ECJ to give annual Hibernian Law Lecture

The advocate general (AG) of the European Court of Justice, Eleanor Sharpston, is to deliver this year's annual Hibernian Law Lecture. AG Sharpston was the first woman nominated to the European Court of Justice, by Britain in 2006, and has already given a number of landmark opinions. She has also had an interesting career at the English Bar, arguing many important cases including *R v Brown* (the infamous criminal law case). She is a Fellow of King's College Cambridge and continues to lecture there.

Her lecture will take place at 7pm on Thursday 22 November in the Presidents' Hall at the Law Society. There will be a wine reception before the lecture and an opportunity

for questions and discussion afterwards. The 2007 *Hibernian Law Journal* will be launched in conjunction with the annual lecture. All are welcome.

The 2007 edition of the *Hibernian Law Journal* is currently being finalised but submissions are already being accepted for the 2008 edition. Articles should be submitted in

soft copy to: editor@hibernianlawjournal.com. While submissions are accepted from all sources, the editorial committee are particularly keen to publish articles by solicitors and trainee solicitors.

For more information on the *Hibernian Law Journal*, log on to: www.hibernianlawjournal.com.

PROFESSIONAL NOTICE RATES

Please note that, from 1 January 2008, the *Gazette's* professional notice rates will increase by 5%, in line with the price inflation index, as notified by the Director of Finance of the Law Society. The new rates will be as follows:

- Lost land certificates: €138.50 (incl VAT at 21%)
- Wills: €138.50 (incl VAT at 21%)
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Margaret Byrne highlights some popular library services that you can access from your PC

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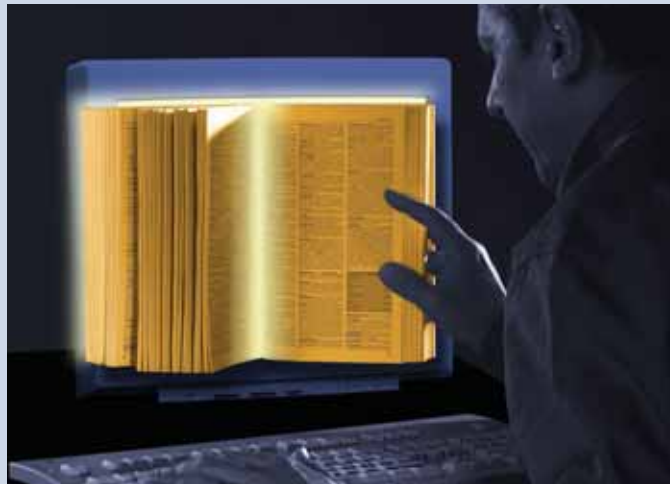
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Electronic precedent forms

By agreement with the publishers, the library may email precedent forms to members from the following electronic services:

- *Encyclopaedia of Forms and Precedents*,
- *Laffoy, Irish Conveyancing Precedents*,
- *Kelly's Draftsman* (LexisNexis



- Butterworths product),
- *Practical Commercial Precedents* (Sweet & Maxwell product).

When you request a particular kind of form, the library staff will check the indices to these services and let you know what is available. You can also use either the electronic or hard-copy versions of these works in person in the library and order the electronic version of the forms you select to be emailed to you. The precedents are Microsoft Word documents and may be used as templates for drafting your own customised forms. There are restrictions in relation to printing more than a single copy or electronically storing the original forms.

The charge for emailing electronic forms is €15 per form.

The library has also a wide range of hard-copy books of precedent forms. Copies of forms can be supplied from these works at the photocopying/scanning and emailing/faxing rates detailed above. Examples of some of the most used works are: BCM Hanby Wallace, *Irish Commercial Precedents*; Spierin, *Wills: Irish Precedents and Drafting*; Tolley's *Trust Drafting and Precedents*;

Underwood, Practical Trust Precedents; Hallam, *Practical Wills Precedents*; Levine, *Commercial Property Development Precedents*; Rennie, *International Computer and Internet Contracts and Law*; and Sweet & Maxwell, *Precedents for the Conveyancer*.

Requesting loans of library books online

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When you find a book you wish to borrow, select 'Request loan'. You will be prompted to type in your user ID (which is your solicitor number) and PIN and click on the 'Request loan' button. The first time you do this, you will need to contact the library for your PIN details. Reports run in the library three times daily, listing the loans that have been requested. The books will be sent out to you the same day by DX or post. You can, of course, also order books by phone, email or fax, or select books in person in the library. **G**

Contact the library: tel: 01 672 4843/4 (direct), fax: 01 672 4845, email: library@lawsociety.ie.

CLIENT FOCUS SEMINARS

The winter programme of Client Focus seminars and workshops are currently underway around the country, organised by the Client Care Task Force. Three seminars have been organised for Cork, Sligo and Dublin in November and December. Six workshops will take place in five venues, to which only those who have attended seminars are invited. A maximum of 14 participants are accommodated at workshops, which build on the groundwork laid at the Client Focus seminar. Places should be booked through CPD Focus at the Law Society. Attendance at seminars and workshops entitles members to CPD management and professional development skills hours.

FLAC WELCOMES FOY DECISION

The Free Legal Advice Centres (FLAC) has welcomed the judgment in the *Lydia Foy* case and called on the government to take immediate steps to provide legal recognition for transgendered or transsexual people.

FLAC, which represented Dr Foy in the case, also welcomed the High Court's declaration that the law in Ireland on this issue is incompatible with the *European Convention on Human Rights*. This is the first ever declaration of incompatibility under the *European Convention on Human Rights Act 2003*.

THE FUTURE OF EU IMMIGRATION

Three years after the Hague Programme set the direction for the second phase of a common EU policy on asylum, migration and borders, a seminar co-organised by the University of Milan and the Academy of European Law, on 9-10 November 2007 at the Court of Appeal in Milan, will discuss current challenges in this field.

Is it right for judges

Given the recent speech by Mr Justice Paul Carney on victim impact statements – and the controversy that ensued – was the judge right to speak out? Pamela Cassidy mulls over the evidence

The viewpoint of that rare breed of commentator – the senior criminal judge – does not often reach a national audience. There are many inhibiting factors, not least of which is the criticism of fellow judges. “I think, on the whole, I would not talk about any case that I had been a judge in ... the danger is that you then become a controversial figure,” was the cautious reaction of the president of the Law Reform Commission, Judge Catherine McGuinness, who spoke publicly only because she had retired from the Supreme Court.

It would, of course, be wrong and possibly contempt of court for a judge to express views about a case over which he or she was currently presiding. But it cannot be right to embargo a judge indefinitely from drawing on personal experiences of court cases. It is this experience that gives him authority when he speaks.

And, as to controversy, it is as much the subject matter as the identity of the judge that provokes the passionate response.

Senior judges are a quiet body on the whole, and their extra-judicial utterances are generally confined to academic lectures directed at legal practitioners or students. Such comments do not usually receive wide publicity, which may be why judges are often accused of being ‘out of touch’ or not understanding the background of the accused and the motives that prompt criminal behaviour. Judges are perceived as living remote lives,

divorced from the ordinary, dining off fine china and silver, and reading different newspapers.

Provocative address

One result of the provocative address of Mr Justice Carney to the Cork University Law Society last month was to dispel some of these illusions. Judge Carney most certainly does read the tabloid as well as the quality press. And he does care, very much, for the rehabilitation of the convict. He is roused to anger by what he sees as the hounding of convicts by certain sections of the press that run emotive headlines such as ‘Animal’, ‘Brutes’ and ‘Sex fiend’. The hounding of

manslaughter convict Wayne O’Donoghue was worse than anything that had gone before: ‘Nothing but a paedophile’, ‘Was Robert molested?’ and ‘He groomed my Rob’. Much worse, because the offender had not been convicted of this horrendous offence. “By the time I got to my chambers, the accused was being branded as a paedophile killer, which he was not, and which the Director of Public Prosecutions never suggested he was,” commented the judge during his speech.

The claims that gave rise to the screaming headlines were made by grieving mother Majella Holohan during the course of her victim impact statement. Mrs Holohan had

volunteered a draft to the judge, but had departed from that draft in a sensational outburst in the last 30 seconds of her statement. Because the claims were made in open court, the press was free to report them. Mrs Holohan had unwittingly licensed this ferocious character assassination.

Speculative material

Nearly two years later, Mr Justice Carney remains critical of Mrs Holohan. He is right to say that she was not entitled to introduce speculative material that was legally inadmissible into a trial court. She was wrong to do so at that time and in that place, and she has already been rebuked by the Court of Criminal Appeal (*DPP v O’Donoghue* [2006] 1 ECCA 134). That court has now set strict guidelines for the making of such statements, including a requirement that the text must be submitted to the judge and to lawyers for the accused, and that victims be warned that “they may be liable to be found to have been in contempt of court” if they depart from the submitted text.

Indeed, Mrs Holohan had no entitlement to make any statement, because the statutory right to make a victim impact statement is confined to the living victim (see panel).

Whether Judge Carney was right, on compassionate grounds, to raise the matter at all is another matter. Interestingly, he amended his text before delivery, to dilute reference to the case.

CRIMINAL JUSTICE ACT 1993: VICTIM IMPACT STATEMENTS

- “5 (1) In determining the sentence to be imposed on a person for an offence to which this section applies, a court shall take into account, and may, where necessary, receive evidence or submissions concerning, any effect (whether long-term or otherwise) of the offence on the person in respect of whom the offence was committed.
- 2) This section applies to:
- A sexual offence within the meaning of the *Criminal Evidence Act 1992*,
 - An offence involving violence or the threat of violence to a person, and
 - An offence consisting of attempting or conspiring to commit, or aiding, abetting, counselling, procuring or inciting the commission of, an offence mentioned in paragraph (a) or (b).
- 3) Where a court is determining the sentence to be imposed on a person for an offence to which this section applies, the court shall, upon application by the person in respect of whom such offence was committed, hear the evidence of the person in respect of whom the offence was committed as to the effect of the offence on such person upon being requested to do so.”



to speak out?

Mrs Holohan was distressed by the judge's criticism, and her solicitor, Ernest Cantillon, rushed to her defence. He was right to do so, but his arguments are open to question. He said it was unfair and unrealistic to expect a grieving mother to sanitise her statement for the benefit of the killer, or to exclude from her mind the features that surround the killing. The rights of the victim must, he argued, be balanced against the offender's rights and, after conviction, offenders' rights diminish.

The legal answer is that the offender's rights are diminished but not abrogated, and the victim's free-speech rights must be postponed, because fairness (and the Constitution) demand it, until after the conclusion of the whole trial. The court is not the proper forum for disclosures of inadmissible evidence, or for claims that formed no part of the prosecution case. There is little doubt, however, that in the real world, the sympathy of the public, not just the tabloid press, is with Mrs Holohan.

Unacceptable interference

Although critical of Mrs Holohan for her unscripted outburst, Mr Justice Carney reserved the brunt of his anger for the tabloid press. It is obvious from the frustration underlying his address that



Majella Holohan: unscripted outburst led to Mr Justice Paul Carney's controversial comments on victim impact statements

control of the victim witness (recommended by the Court of Criminal Appeal) is to him a less desirable solution than control of sections of the press.

He does not agree that the victim should necessarily be censored – either by the accused or by the fear that the press will seize on grief-stricken outbursts to hound the offender. He does agree, however, that the abuse of the victim impact statement procedure can result in an unacceptable interference with the trial process, which is a criminal contempt: “It must be clearly understood that the courts will deal firmly with a victim who wilfully abuses the victim impact procedures, and the courts, in doing so, will face down any venom directed at

them by the tabloid press. This is not to say that compassion should not be exercised ... in the case of a victim motivated by obsessive grief as distinct from malice.”

His real target is the press, and it seems clear that he would like to extend the contempt sanction to the press for frustrating one element of the administration of justice, the rehabilitation of the offender. It would be a new departure in law to penalise the press for a fair and accurate report of open court proceedings, and one that would almost certainly breach our obligations under the ECHR. And this is the inconsistency at the heart of the address: he does not want to censor the victim, but that is the only way to rein in the press.

At present, the law of libel is the real deterrent to tabloid excesses on convicted offenders, and it is a bold convict who would risk what is left of his reputation in a libel court. It has been reported that solicitor Frank Buttimer is contemplating several libel actions on behalf of his client Wayne O'Donoghue over press reports in the aftermath of the trial. He has a fight on his hands.

Was the judge right to speak out? He has deeply offended a grieving mother, but she has a sympathetic and eager medium (the press) for any response she cares to make. He has also prompted the Minister for Justice to review the rules governing the making of victim impact statements. Mr Justice Carney was in an unenviable position. He believes that the integrity of criminal trials, and of the administration of justice as a whole, is under attack by an “unwitting coalition” of “iconic” media figures and sections of the press. It cannot be right that he should sit quietly in his chambers and confine his concerns to fellow judges over a glass of dry sherry. **G**

Pamela Cassidy is principal solicitor of Cassidy Law and co-author of the forthcoming practitioners' book Contempt of Court (Clarus Press).

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Advertisement survey

The Law Society recently invited members to take part in a survey on its recent press advertising campaign. Graham Wilkinson of Behaviour & Attitudes summarises the key findings

Last May and June, the Law Society ran a series of five different advertisements in the national press. The adverts were designed to promote the solicitors' profession and the services it provides to the general public. The campaign was devised and recommended by leading advertising agency McConnells. It was based on detailed research about the public's attitude to solicitors, and the specific advertisements were tested in advance on focus groups around the country (see *Gazette*, July 2007, p11).

In keeping with its approach of relying on expert advice, the Law Society also commissioned a leading market research company, Behaviour & Attitudes, to conduct three separate (but linked) pieces of market research. These were:

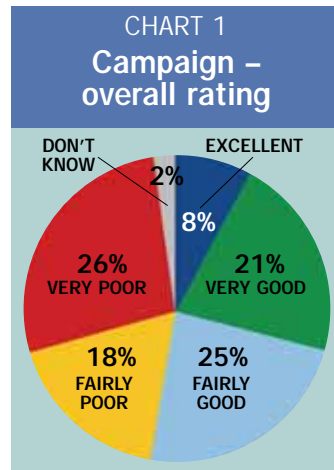
- A national survey on the general public's attitude to solicitors,
- Focus-group research on the Society's press advertising campaign, and
- A postal survey on members' attitudes to the campaign.

'Quite high regard'

The national survey of the general public's attitude to solicitors was based on a nationally representative quota sample of 1,000 adults (aged 15 years and above) who were interviewed face-to-face, in-home, in early May 2007.

As a profession, solicitors were viewed in a broadly positive light: 43% holding them in 'high regard', 44% 'about average', and just 12% in 'low regard'.

Compared with this overall



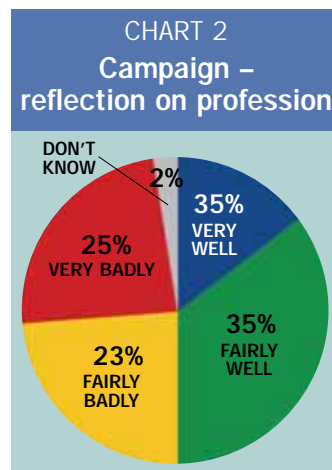
view of solicitors, however, accountants recorded a significantly higher rating, barristers were broadly in line, while auctioneers were much lower down the scale.

A majority of the total adult population (62%) claimed to have direct experience of using solicitors' services at some stage. (This compared with auctioneers at 34%, accountants 29%, and barristers at just 9%.)

There was very positive feedback from those who had used solicitors within the past year, with 86% describing themselves as very or fairly satisfied (just 8% were unhappy).

Awareness of the different services that solicitors provide was highest for wills/probate (55%) and buying or moving house (48%).

Users of solicitors' services were also asked to rate their performance on a number of key criteria. The results were most positive in relation to 'taking an interest in your case', the quality of advice/guidance, and doing the business efficiently. They were lowest on value for money, providing cost



estimates and being client focused.

The second phase of research was designed to provide insights on the general public's attitudes to the Society's press advertising campaign following its initial three-week phase during June 2007. This study was based on a series of four focus-group discussions among men and women in Dublin, Cork and Athlone.

The advertising campaign appeared to have a number of inherent strengths – considerable impact/stand-out, a capacity to engage readers through curiosity, and considerable clarity in communicating its messages. The five separate advertising executions – which featured a variety of scenarios – were seen as an effective way of demonstrating the relevance and value of solicitors' services across a broad spectrum of situations.

Considered in its entirety, the campaign was assumed to have two main rationales: to generate business for solicitors and to raise awareness of their

services. (Others assumed that it was intended to present the profession in a more accessible light, or to make people more aware of their legal rights.)

The use of a distinctly different 'cartoon strip' style seemed to be a key factor in engaging reader interest – and prompting reappraisal of the value of solicitors' services.

However, this study also highlighted two issues that warranted consideration:

- Evident tension between the overtly 'cartoon' style and the seriousness of a solicitor's role in these various scenarios, and
- These concerns were compounded by perceptions of a rather flippant tonality in parts of the advertising copy.

While there was general receptivity towards this campaign in raising the profile of solicitors' services, Behaviour & Attitudes recommended that some refinement of the creative execution style (and less attempted levity) would be desirable in the future.

The profession's perspective

Following the first phase of the press campaign, the Law Society sought its members' views through a postal survey based on a short, structured questionnaire (accompanied by a set of the five adverts used in the campaign).

This survey questionnaire was sent to all members with a covering letter from the president on 6 September 2007. It yielded a response level of 1,545 completed questionnaires.

The key results were as follows:

reveals split opinion

Media advertising – strong support. The opening question asked members if they were in favour or against the idea of the Law Society engaging in media advertising to promote the solicitors' profession and the value of its services to the general public.

The response showed very decisive support for the general concept of using main media advertising. Almost three-quarters (74%) indicated that they were in favour – with a third strongly supportive.

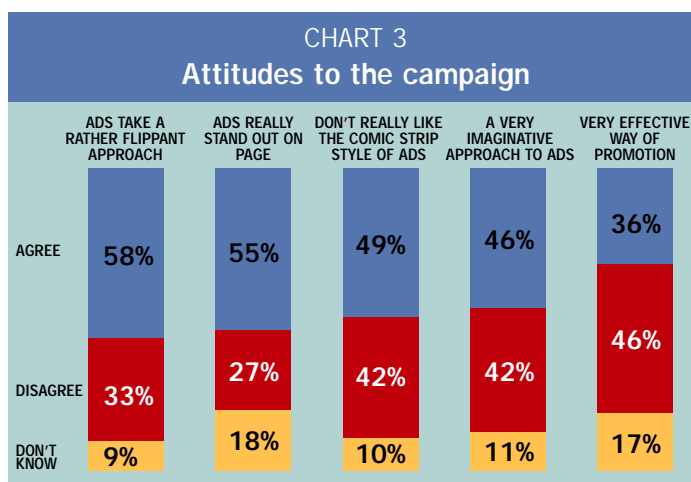
This level of support was consistent across the membership in terms of gender and years of practise.

Campaign awareness – healthy levels. A majority of almost six in ten members (58%) were aware of the press campaign during its initial phase, and virtually all of those had seen some individual executions (95%).

For members who recalled individual versions, the 'House Hunters' scenario achieved highest recall at 68%, compared with 'Wipe Out' at 47%, 'Susan's New Garden' (42%), 'Rob's Hand' (42%), and 'Paul's Calf Accident' (37%).

Campaign rating overall – mixed response. When asked to rate the campaign overall on a five-point scale, the results showed a mixed response with a critical skew: 29% described the campaign as excellent or very good and 25% as fairly good, with 44% seeing it as very or fairly poor (see chart 1).

Campaign performance – strengths and weaknesses. The survey also included an evaluation of the campaign on the basis of six key performance criteria. This indicated that it was widely regarded as easy to understand



and clear in its messages. On balance, it was also felt to engage and involve readers.

A more divided view emerged on the perceived relevance of the campaign messages and its capability to make an impact.

Campaign specifics – divided opinions. Members' attitudes to specific aspects of the campaign were explored on the basis of agreement or disagreement with a series of five statements (positive and negative) (see chart 3).

A majority agreed that the ads really stood out on the page, but they were also seen to take a rather flippant approach (echoing a key finding from the earlier focus-group work at general public level).

Attitudes to the campaign were divided on the basis of the 'comic strip' style and the degree to which it represented an imaginative approach.

On balance, there was a tendency to disagree with the idea that the campaign was effective in promoting solicitors and their services.

An assessment of each of the five executions on key performance criteria confirmed that 'House Hunters' scored

highest on all counts, whereas 'Susan's Garden' recorded the lowest score on most criteria.

Long-term suitability – some qualifications. A rating for the campaign's suitability for longer-term use was based on a four-point scale, on which 44% described it as suitable, versus 55% who deemed it unsuitable.

Suitability for future usage was explained mainly on the basis of:

- Showing solicitors in a positive light,
- Ease of understanding/clarity,
- Helping the public image and,
- Universal appeal/accessibility.

In contrast, those who saw it as unsuitable linked this to:

- Flippancy/trivialisation,
- Not encouraging confidence,
- Being inappropriate,
- Over-simplified/childish.

Future campaign usage – two camps. A direct question on whether members were in favour or against the Law Society continuing to use this press advertising campaign drew a similar response: 40% in favour versus 47% against, and the balance of 12% with no strong feelings either way.

Reflection on the profession – split vote. A concluding question asked members how well or badly this campaign reflected on the profession. This produced a split vote – albeit with somewhat more critical emphasis.

Half thought it reflected well on the profession – that is, very well 14%, fairly well 35%; while half felt it reflected badly – that is, very badly 25%, fairly badly 23%.

The way forward?

The results of the postal survey produced a consistent pattern of divided opinion on the recent press advertising campaign. On an overall basis, those who took a negative view outweighed those who were positive about the campaign.

The advertising was acknowledged to be clear and easily understood, with a capacity to engage and involve readers – but there were qualifications about the relevance of its message and perceptions of apparent 'flippancy'.

Looking forward, members were almost evenly divided on the issue of future usage of the existing press campaign and the way in which they felt it reflected on their own profession.

While there was recognition of inherent strengths in the existing approach, the level of concern expressed by members would suggest a need to review this campaign concept – and style of execution – prior to reaching any decision on future media advertising support.

Graham Wilkinson is a director of market research company Behaviour & Attitudes Ltd.

Human rights valuable

The Fifth Annual Human Rights Conference tackled the controversial theme of human rights and the criminal justice system. Elaine Dewhurst reports

In a week that raised much controversy over the value of victim impact statements in Irish courts and alarm following the release of the report for Ireland by the Committee for the Prevention of Torture, the time was ripe for a discussion on the role of human rights in the criminal justice system. On Saturday 13 October, the Fifth Annual Human Rights Conference – jointly sponsored by the Irish Human Rights Commission and the Law Society – tackled the difficult and controversial theme of ‘Human Rights and Criminal Justice’. The level of interest generated by the theme was reflected in the high attendance, which saw judges, practitioners, academics, students and members of the public all participate.

Human rights and the accused

In a thought-provoking presentation, Geoffrey Bindman, solicitor and chairman of the British Institute of Human Rights, endorsed, first and foremost, the idea that human rights are of central concern in all aspects of life and not just in the area of criminal justice. However, in the area of criminal law, human rights had the potential to be of great value to all the various actors involved in the criminal process, from the accused to the offender to the victim. Echoing this theme, Des Hogan, acting chief executive of the Irish Human Rights Commission, identified the importance of human rights norms in ensuring effective investigation, detection, prosecution and conviction of those guilty of criminal offences.



Ivana Bacik addresses conference attendees

However, he also argued that human rights norms “require the safeguarding of the rights of the suspect, so as to ensure that no miscarriages of justice take place”.

Public debate

Chairman of the Irish Criminal Bar Association Michael O’Higgins SC felt that the recent changes to the criminal justice legislation in Ireland amounted to a “serious

diminution of human rights”. He argued passionately that the *Criminal Justice Act 2007* had been introduced to “garner votes” and felt that, under the present legislative regime, more guilty people would be convicted – but more innocent people would be too. This would be “an unacceptable price”. He also felt particularly aggrieved that the public at large were apathetic about issues of human rights and civil



Attending the conference on 13 October were (l to r): Maurice Manning (president of the Irish Human Rights Commission), James MacGuill (senior vice-president, Law Society of Ireland), Sir Geoffrey Bindman (solicitor and chairperson of the British Institute of Human Rights), and Des Hogan (acting chief executive, Irish Human Rights Commission)

liberties, and the lack of public debate surrounding the introduction of the *Criminal Justice Act 2007* demonstrated this effectively.

This theme also pervaded the presentation of Bronagh Maher BL, who was speaking on the possible expungement of criminal convictions in Ireland. She was speaking on behalf of the Spent Convictions Group, an expert group made up of members of the Law Society’s Human Rights Committee and Criminal Law Committee, the Northside Community Law Centre, the Ballymun Community Law Centre, the Ballymun Local Drugs Taskforce, and Business in the Community. She sought submissions from the public on this issue and encouraged public debate, “particularly in light of the potentially far-reaching benefits of such legislation both for former offenders and for society in general”.

Role of the legal profession

The conference also heard from Barra McGrory, the first solicitor in the North to become a QC. He provided the audience with the benefit of his experience and compared it with the current system in this jurisdiction under the *Criminal Justice Act 2007*. He commented that the new system effectively requires the “constant presence of the solicitor during the interviews. This is something that has serious implications for the management of criminal law practices. It will also make it much harder for small general practices to offer a service to clients questioned about criminal matters.”

From an alternative

ALL PICS: LENS MEN

in criminal process

perspective, Conor Hanly, lecturer in criminal law at NUI Galway, sought to find space for victim's rights in the criminal justice process and explored the role of the legal profession in the cross-examination of victims of crime. In particular, he examined the difficulties faced by victims who are cross-examined by a defendant acting on their own behalf in a criminal trial. He noted the human rights implications of such cross-examinations and the potential violations of human rights that could ensue where these are not carried out with the human rights of the victim in mind. He argued very effectively that "permitting procedures to continue that have the effect of dissuading complainants from seeking redress through the courts hardly constitutes an effective remedy" for victims.

Alternative perspectives

Prof Tapio Lappi-Seppälä, from Finland's National Institute of Legal Policy, gave an excellent and thought-provoking presentation on the humanisation of the criminal justice process in Finland and the most recent reforms of prison law there. Summing up



Conference speakers included (l to r): Bronagh Maher, James MacGuill (Law Society), Michael O'Higgins SC, Maurice Manning (IHRC), Mrs Justice Maureen Harding Clarke, Sir Geoffrey Bindman, Tapio Lappi Seppalla (Finland), Des Hogan (IHRC), Barra McGrory QC and Ivana Bacik

the Finnish approach, he noted that "finding alternatives to imprisonment when possible, shortening the sentences when imposed, and using the back-door options more effectively in the enforcement are all measures of vital importance. And they all are less costly than incarceration." Claire Hamilton, speaking as chairperson of the Irish Penal Reform Trust, agreed. She described in great detail the problematic areas of the Irish prison regime and referred to future challenges in Irish prisons. She argued that, in the future, "it is vital that the rights of prisoners inform both the

design and operation of new prisons".

This inclusive approach was also adopted by Paul Bailey, director of Blanchardstown Offenders for New Directions, who gave the final presentation of the day. This thought-provoking presentation demonstrated the perceptions of young people in Dublin 15 of their rights after their release from prison. He asked the young people for their impressions of human rights. The title of his presentation – "Rights! What Rights?" – was an actual response given by a young person when he put this question to them. Much of the

material presented was hard-hitting, but provided great food for thought for the legal community. In summing up, he commented on need for the legal profession to show a professional interest in the young people they represent.

Success

The conference was chaired by Senator Ivana Bacik, Reid Professor of Criminal Law at TCD; Ms Justice Maureen Harding Clarke; and Tina Roche, chief executive of Business in the Community, who all added greatly to the quality of the conference and encouraged a lively and interesting public debate. Law Society Senior Vice-President James MacGuill and Dr Maurice Manning of the Irish Human Rights Commission opened the conference. Noeline Blackwell, chairperson of the Law Society's Human Rights Committee, brought the conference successfully to a close. **G**

Elaine Dewhurst is the Law Society's parliamentary and law reform executive. The conference papers are available online at the Law Society website, www.lawsociety.ie.



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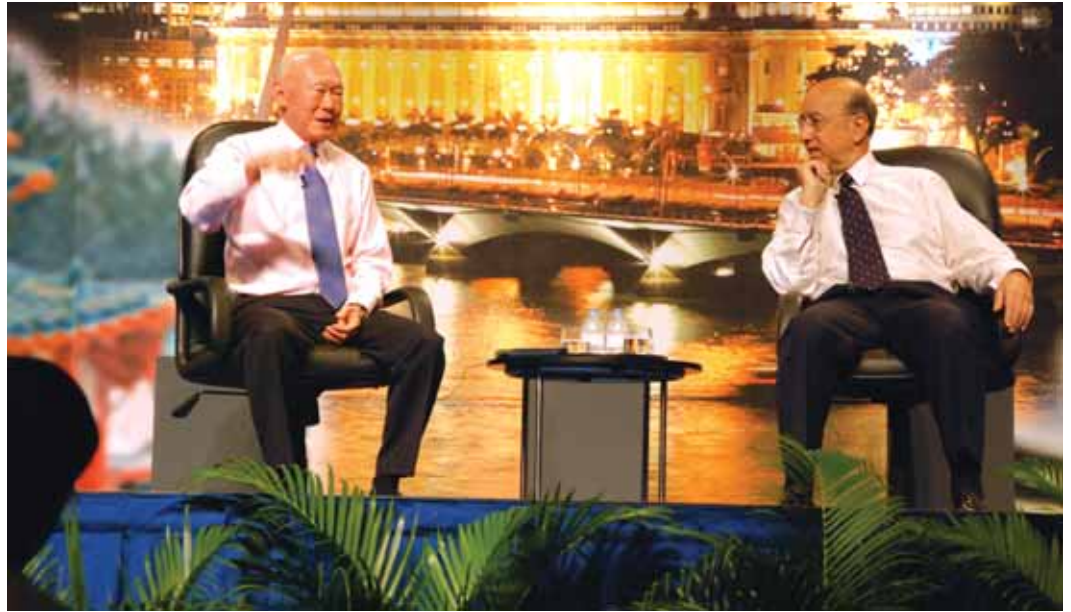
Fireworks in Singapore

The International Bar Association's annual conference in Singapore attracted bigger numbers than ever – and its fair share of controversy, as Jonathan Ames reports

If numbers are anything to go by, the International Bar Association's annual conference is going from strength to strength. It is not yet the best-attended annual meeting of lawyers in the world – that distinction is firmly held by the American Bar Association's yearly bash, which attracts about 10,000 through its doors – but it is clearly in second place and getting bigger.

This October, over 4,000 practitioners from more than 120 countries descended on the island city-state of Singapore for the week-long event of debating and networking. Without doubt, the IBA annual shindig is a premier networking bash. It might be hard on the liver and the brain cells, but the socialising clearly pays business dividends. One Dutch lawyer announced that he had been attending IBA annual conferences for the best part of 20 years and, indeed, about 80% of his business came from referrals garnered at the gathering.

The global giants also view the event as a prime marketing opportunity. This year, Linklaters went high (to a multi-tiered bar on the 71st and 72nd floors of the Stamford Hotel), while Allen & Overy went cultural (incorporating a Chinese dragon-dance routine into its party). For them and their international competitors, name recognition and brand placement are the driving forces. Local clients in the region – as well as the competition – get the message that, by throwing a big bash at



Questions and answers: Lee Kuan Yew, Singapore's former prime minister – now 'Minister Mentor' – with symposium chairman and former IBA president, Francis Neate

the IBA, these law firms are serious players on the global legal stage.

It is unapologetically macho and would have most high-street general practitioners in Ireland and Britain wincing with embarrassment, incandescent with rage, green with envy – or, more likely, all three.

Hardline approach

While the networking parties are impossible to ignore, the IBA annual conference can legitimately claim to be about more than that. There is no lack of opportunity for delegates to tackle serious issues, in the form of 150 sessions, including opening keynote speeches and three showcase events.

And the Singapore conference didn't disappoint in terms of controversy. But then again, the IBA hierarchy ensured that when it approved

the venue however many years ago. For while Singapore is a Far East economic hub and a bastion of free-market enterprise, it is also the focus of significant concern and attention from international human rights campaigners.

Therefore, when Lee Kuan Yew, Singapore's former prime minister – and now 'Minister Mentor' – took his front-row-and-centre position as keynote speaker to open the event, delegates could be assured of fireworks. Lee, who was called to the bar at Middle Temple, was directly in charge of the country for more than 30 years, until 1990 (and some suggest he effectively still is, as his son is now prime minister). During that time, he undoubtedly transformed Singapore from colonial trading post to modern, gleaming international financial centre. But human rights lobbyists say there was a

significant cost in terms of civil liberties.

However, Lee, who is undoubtedly well accustomed to the criticism, is apparently untroubled by it. "I don't have to defend myself or my country," he said with a wry grin. "I don't measure myself by the yardsticks of Amnesty International, Freedom House or Reporters Without Borders. I measure myself by the governance of the people."

Lee summarises the Singapore approach to the rule of law as having "inherited a sound legal system from the British" and then evolving it to fit local needs. He and his ministers aimed to create "clear laws, easy access to justice and an efficient legal system [to] provide the basis for citizens to compete equally in the market and to grow the economy".

Genuine he may be, but there was a feeling at the conference that his hard-line

over human rights

approach might be running out of time. IBA officials fought a tough battle with the Singapore authorities for the conference's day-long 'rule of law' symposium to be open to the public. The required permit was granted only hours before the curtain was raised on the opening session – and the government, in the form of deputy prime minister and minister of law S Jayakumar, probably wished that it had allowed the red-tape merchants to strangle the event.

The deputy PM was hit by a volley of criticism from several speakers at the symposium. Leading the attack was Chee Soon Juan, secretary general of the opposition Singapore Democratic Party. Chee lambasted the Singapore government for a range of alleged human rights abuses, including detention without trial and a reliance on corporal punishment, such as canings. To loud cheers from the conference delegates, he told symposium chairman, former IBA president Francis Neate: "Your delegates want to hear what the reality of Singapore is. I know that they have come to network and to do their deals. But this is where I bring up my children and I want them to know what right and wrong are."

Anti-terror measures

The session also provided a platform for Britain's former attorney general to espouse a considerably more critical analysis of the anti-terror measures promoted by the Blair government following the 11 September 2001 attacks in the US. Lord Peter Goldsmith said he was "not at all persuaded that we should



Lee Kuan Yew, Singapore's former prime minister, arriving to address delegates at the IBA annual conference in Singapore

extend further the amount of time the police can hold a suspect without charge".

He also counselled governments against adopting generally draconian measures. In a remark aimed at the US authorities, who are still imprisoning terrorist suspects in Guantanamo Bay, he said: "You can't keep people locked up until 'the end of the conflict' because you will never know when the 'war on terror' will end. The first line of defence needs to be the criminal law. People have faith in the criminal courts."

While the 'rule of law' day arguably generated the most passion, there was no shortage of other controversial subjects throughout the week. The first showcase session asked: "Are lawyers aware of cultural differences and are they able to deal with them?" Singapore's chief justice, Chan Sek Keong, answered by reprimanding Westerners for being acutely aware of political correctness in their own countries, while "they are not very aware of the need not to offend other cultures".

At the second showcase, on

"The importance of the rule of law to international business", Vidhi Tambiah of Swiss-based analysts, the World Economic Forum, cited the control of corruption as having one of the most "positive and definitive impacts on a country's growth prospects and its actual economic growth".

One of the worst problems international business faces in the region is the difficulty in protecting intellectual property rights. Rich Sauer, head of legal at Microsoft's Asian operation, explained to delegates: "We spend much time investigating corruption and piracy issues, conducting eight to ten-month-long investigations. We then inform the police and, in some cases, if they launch a raid – even if it is within hours – in that short time, the pirate warehouse has been cleared out and the evidence has disappeared."

Stamping out corruption

The week's final showcase was specifically devoted to stamping out corruption, and Hong Kong's former solicitor general Daniel Fung returned

to the point of cultural differences, specifically sounding a warning note to the West not to be sanctimonious towards developing countries. "We must approach the problem of developing-world corruption honestly and fairly," he told delegates. "We have to face the fact that these practices went on several hundred years ago in what is now the developed world."

A crowded conference schedule saw two other high-profile announcements from the IBA. It launched a master of law degree (LLM), which it is running jointly with the College of Law of England and Wales. Describing the course as "not an academic programme [but one that] is very skills orientated", the college's director of professional development, Sarah Hutchinson, said the degree would focus on client communication and problem-solving in an international transactional law environment. A group of top global law firms has contributed content, she added.

IBA executive director Mark Ellis also announced the opening in Dubai of the association's second regional office, following the launch of the Sao Paulo satellite two years ago. Indeed, the IBA is planning on holding its 2011 annual conference in the Middle East emirate, where, undoubtedly, human rights will again be on the agenda. ©

Jonathan Ames is the former editor of the Law Gazette in London and is now a senior editor at Dubai-based The Media Factory, which publishes the legal professional monthly magazine The Brief.

The right to education in

The recent debate about the lack of places for new non-Catholic pupils in Catholic-run primary schools raises some legal questions, writes Niamh Hayes

The controversy about the admissions policies of some primary schools that favour siblings of existing students and new students with evidence of a Catholic baptismal certificate raises questions about what responsibilities are owed to those seeking primary education in this country, by whom the responsibilities are owed and whether they have, in fact, been breached in recent circumstances.

Right to primary education

The right to education set out in article 42 of the Constitution is carefully worded. It is not the state's responsibility to provide education itself, rather to provide *for* the education of children. This amounts in effect to a duty to provide funding and administration for the system of primary education. Article 42.4 entitles the state to fund private educational initiatives (which would include denominational schools) as well as public schools, but underlines the need for "due regard ... for the rights of parents, especially in the matter of religious and moral forma-



tion". Article 44.2.4 prohibits discrimination on denominational grounds in the state funding of primary schools and reiterates the right of parents to refuse to allow their child to attend religious instruction in any state-funded school.

The right to free primary education set out in articles 42 and 44 is owed by the state to 'children', which was held in the 2001 *Sinnott* case as being limited to those under 18, even in the case of severe learning difficulties. The right to free

primary education is enjoyed by all children in the state and is not dependent on the nationality, legal or other status of their parents. Article 42 has been held to be informed in its entirety by the concept of parental choice in *O'Sbiel v Minister for Education* [1999], where the court found that the failure by the state to provide funding for a parent-run school, while constitutionally valid in other respects, could not be justified by reference to the availability of 15 other funded

denominational schools within a 12-mile radius. It is questionable whether, and to what extent, the lack of non-denominational schools in the Balbriggan area and the failure to provide adequate primary school places for a given district could be seen as unconstitutional. One may argue that, had the state been unable to secure alternative facilities for the provision of non-denominational education in the area, the rights of free primary education and parental choice would have been irreparably breached.

Freedom of religion

Over 98% of Irish children are educated in denominational schools, although the amount of parental choice in this fact is questionable given that, at the beginning of the 2007 school year, avowedly pluralist Educate Together schools amounted to only 44 of the approximately 3,150 national schools in Ireland. The reality across Ireland is that most, if not all, available primary school places will be in denominational,

ONE TO WATCH: NEW LEGISLATION

Data Protection (Amendment) Act 2003 (Commencement) Order 2007 (SI no 656 of 2007);
Data Protection Act 1988 (Section 16(1)) Regulations 2007 (SI no 657 of 2007);
Data Protection (Fees) Regulations 2007 (SI no 658 of 2007);

Data Protection (Processing of Genetic Data) Regulations 2007 (SI no 687 of 2007).

On 1 October 2007, new regulations relating to the fees and registration requirements for the purposes of the *Data Protection Acts 1988 and 2003* came into operation.

Fees

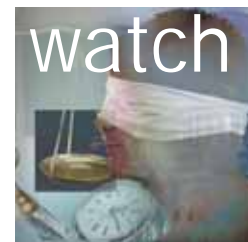
This is the first fees increase since the regulations on data protection were introduced in 1988. The relevant fees in respect of processing registration applications and renewals and for the processing of amendments are set out in the table, p23.

Requirement to register

The following categories of workers, among others, are required to register with the Data Protection Commissioner if they hold or process personal data on computer:

- Banks and financial/credit institutions – this includes a

human rights watch



religious schools

primarily Catholic, schools. The constitutionality of this continued management of primary education along denominational lines was upheld by a unanimous Supreme Court in *Crowley v Ireland* [1980], as was state funding of denominational education, religious instruction, chaplains and religious iconography in state-funded schools in *Separation of Church and State v Minister for Education* [1998].

The existence and state funding of denominational schools has a sound footing in Irish law, but what can be said about their admission policies? In some situations, such as that in Balbriggan, Catholic schools with limited availability of places have sought proof of religion, including the existence of a child's baptismal certificate, from parents seeking enrollment. Religious schools are specifically exempted from the provisions of the Constitution and legislation that prohibit religious discrimination. Section 7 of the *Equal Status Act 2000* explicitly provides for the right of a denominational primary or post-primary school to admit students of that denomination in preference to others, or to refuse

to admit a student not of that denomination in order to maintain the religious ethos of the school. The rights of denominational schools to discriminate on religious grounds have been upheld not only in relation to admissions but also employment policies (*McGrath v Maynooth College* [1979], *Flynn v Power* [1985]).

It is beyond question that a denominational school is entitled to refuse a pupil of another or no religion but, given the constitutionally-protected right of parents to control or opt out of religious instruction, it seems illogical that a situation could be legally permitted where, in a locality with an absence of any non-denominational schools, a baptismal certificate becomes a necessary requirement for enrollment. Article 42.3.1 requires that parents shall not be obliged, against their conscience or lawful preference, to send their children to "any particular type of school designated by the state". In this case, such a situation may have been effectively imposed by poor planning and failure to provide non-denominational alternatives in a given area,

leaving non-religious parents in the locality with the stark choice between baptism or home schooling for the education of their children.

Accusations of an unspoken racist agenda, due to the almost exclusively black ethnicity of the pupils unable to secure a place, are not supported by reference to the existing student population in the Catholic primary schools in the area, over 20% of whom are of non-Irish origin. Were there to be any evidence that a school was attempting to shield a decision to refuse entry to a non-Irish child behind the legally protected discretion to protect the religious ethos of a school, such a decision would be manifestly illegal. However, in relation to Balbriggan, this is simply not the case.

Parental choice

It is an undoubted fact that, despite no evidence of racial discrimination, 106 pupils were unable to find a place in a local school at the beginning of this academic year on the basis, at least partially, of their religious orientation. This situation was exacerbated by the over-subscription of available places

in denominational schools and the parlous failure of the state, in planning terms, to provide adequate educational facilities for the growing urban population. Non-denominational primary education has been provided in Balbriggan on an emergency basis, avoiding a complete breakdown in the state's obligation to fund and facilitate free primary education. However, it will be of increasing relevance that the majority of Ireland's newer immigrant populations (along with a substantial proportion of Irish citizens) do not identify as Catholic and yet have no available local alternative source for the provision of primary education. For as long as such an overwhelming majority of primary and secondary school places in this country are left to be provided by denominational schools, it is questionable whether any viable element of parental choice in education is being adequately respected by the state, as required by the Constitution. **G**

Niamh Hayes is a PhD candidate at the Irish Centre for Human Rights, NUI Galway.

person who holds a licence under section 9 of the *Central Bank Act 1971*, or a person referred to in section 7(4) of that act (other than an institution referred to in paragraphs (a) to (f) of that section), or a person authorised to carry on

business in the state in accordance with the *European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992* (SI no 395 of 1992),

- Insurance undertakings within the meaning of section 2 (as amended by section 3 of the

Insurance Act 2000) of the *Insurance Act 1999*,

- Persons whose business relates wholly or mainly to direct marketing, providing credit references or collecting debts,
- Internet access providers,
- Telecommunications network or service providers (within the

meaning of the *Electronic Communications Networks and Services (Authorisation) Regulations 2003*),

- Processors of genetic data (within the meaning of the section 41 of the *Disability Act 2005*) – data controllers who intend to process genetic data



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for employment purposes must obtain specific approval from the Data Protection

Commissioner in accordance with section 12A of the *Data Protection Acts 1988 to 2003* and pay the prescribed fee,

- A data processor that processes personal data on behalf of a data controller who falls under one of the above categories.

Exemptions

All data controllers and processors must register with the Data Protection Commissioner unless they come within a category of persons who are exempt from these requirements (section 16 of the *Data Protection (Amendment) Act 2003*, which amends section 16 of the *Data Protection Act 1988*, commenced on 1 October 2007). Under the new regulations, the following controllers or processors no longer have to

	Postal/in-person/ fax applications	Online applications
Prior checking of processing by commissioner:	€100	€90
Amendments:	€100	€90
Registration/renewal for applicants with 26 employees or more:	€480	€430
Registration/renewal for applicants with 6-25 employees:	€100	€90
Registration/renewal for applicants with 1-5 employees:	€40	€35


register with the commissioner:

- Persons involved in personnel administration,
- A candidate for, or a holder of, a political office who processes personal data for electoral activities, for political purposes or for the purpose of providing advice and assistance,
- Educational establishments,
- Solicitors/barristers who process data for legal professional purposes,

- Any commercial activity that involves the processing of personal data, for example, in relation to customers or suppliers (health professionals who process personal data relating to the physical or mental health or condition of a data subject for medical purposes are excluded from this),
- Companies that process data relating to shareholders, directors and other officers of

the company with a view to compliance with the *Companies Acts*,

- Data controllers who process data with a view to the publication of any journalistic, literary or artistic material,
- Categories of data controller or data processor to which a code of practice approved under section 13 of the 1988 act applies, and
- Data processors who process data for data controllers where the processing of the data falls within one of the above categories.

More information in relation to these amendments and the new fees is available at www.dataprotection.ie. 

Elaine Dewhurst is the Law Society's parliamentary and law reform executive.



COURTS SERVICE
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Notice Enniscorthy District Court sittings

With effect from 8th October 2007 and until further notice sittings of Enniscorthy District Court will be held in Wexford District Courthouse, Unit 7, Ardavan Business Park, Wexford, Co. Wexford.

This is due to ongoing refurbishment works at Enniscorthy Courthouse.

The Courts Service regrets any inconvenience to Court users.

Patrick Looney,
Chief Clerk,
Wexford District Court Office,
Unit 7,
Ardavan Business Park,
Wexford.

Tel: 053 9122097 Fax: 053 9124798
e-mail: wexforddc@courts.ie

Fógra Suíonna Chúirt Dúiche Inis Corthaidh

Le héifeacht ó 8 Deireadh Fómhair 2007 go dtí go bhfógrófar a mhalairt beidh suíonna Chúirt Dúiche Inis Córthaidh i dTeach Cúirte Dúiche Loch Garman, Aonad 7, Lárionad Gnó Ard Chabháin, Loch Garman, Contae Loch Garman.

Tá sé seo ag tarlú de bharr oibreacha athchóirithe a bheid ar siúl i dTeach Cúirte Inis Córthaidh. Is dona leis an tSeirbhís Chúirteanna aon mhíchaoithiúlacht a bheadh ann do lucht úsáidte na Cúirte.

Patrick Looney,
Príomhchléireach
Oifig Chúirt Dúiche Loch Garman,
Aonad 7,
Lárionad Gnó Ard Chabháin,
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Brewing STO

The economy may be heading for tougher times, and the effects are already visible in private client firms. Recognising the changes and addressing the challenges are the first steps. David Rowe sniffs the wind of change

The present economic climate points to the start of a significant slowdown, with growth rates being halved from 6.5% in 2006 to a projected 3.25% (and as low as 1.5% according to some analysts) in 2008. This is evidenced by the number of new housing starts being predicted to slump from 92,000 in 2006 to between 45,000 and 65,000 in 2008, depending on the commentator. The volume of mortgage lending is down 23% year-on-year in the second quarter. These changes are already affecting law firms.

The last five years have seen a number of significant changes for Irish law firms. The effects of some of these changes will only be seen in a slowdown.

For a majority of medium and smaller firms, the most dramatic change has been the introduction of PIAB. This has had a very significant impact on Irish law firms. However, this occurred at a time when the Irish economy was booming. For many mid-size and smaller firms, the increased conveyancing effectively took up the fall in turnover caused by the introduction of PIAB, albeit at lower rates of profitability.

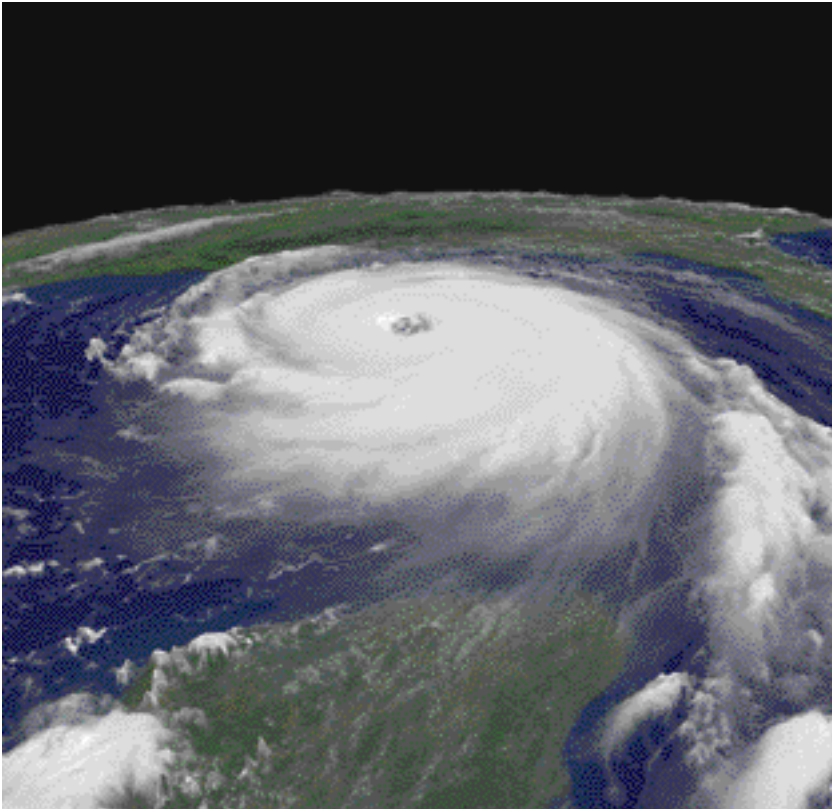
As a result, the profile of work in most Irish law firms has changed significantly to be much more economy dependent. Areas of work like litigation,

MAIN POINTS

- Economic downturn?
- Effective strategy for your firm
- Managing fee earners
- Marketing and retaining clients

up a RM





probate, and family law, which are not economy dependent, have remained steady. Most firms have seen a change from approximately 60% of turnover not being dependent on the economy (primarily litigation) to 60% being dependent on the economy (conveyancing, and so on). Therefore, a slowdown in the economy is going to have more serious repercussions than previously.

Changing market

In addition to the economic factors, the Irish legal market has changed in another important respect. Work that is seen as routine, and in the client's eyes as low-value, has become commoditised and therefore lower paid and less profitable. The best example of this is residential conveyancing, which is currently extremely competitive. Put simply, this is a service that can be bought from almost any law firm in Ireland and, rightly or wrongly, it is not the type of service for which clients are prepared to pay a premium. Profitability of different types of work has shifted, and the more specialised and complex work (for example, commercial) is rated as more important by the client, who is therefore prepared to pay a higher rate. The money and profitability has shifted to the areas that are seen by the client as having higher value to them – this was not the case five years ago.

A further change is that the Irish market is now much more structured and is becoming even more so. There are now a number of different market positions:

- Private client firms,
- Private client firms with a number of niche

- higher-value practice areas,
- Medium-size firms concentrating on a number of different niches,
- Medium-size firms with a broad presence in all practice areas,
- Larger firms driven by commercial work.

While the market has not yet become quite as structured as that, it is rapidly heading that way.

Over the past five years, Irish law firms have begun to manage themselves better. A high percentage of the market has reinvested in areas such as practice management, technology, systems and staffing. Intelligent reinvestment now leaves these firms in a healthy competitive position. Firms that have failed to invest will struggle.

Slowdown showdown

In the larger corporate firms, there will be insufficient high-value transactions to sustain current overheads. Large corporate firms are the most economy dependent. A slowdown will result in mergers and moving down the market to attempt to shift clients from the mid-size firms through aggressive pricing. The shortage in firms up to now has been of people and talent. If the economic changes that are forecasted do come to pass, the scarcity will shift quickly to work. In a growing economy, the large corporate firms tend to concentrate less on the mid-size work, because there are sufficiently large numbers of high-value transactions around. There are early signs of a shift in this market – however, most of the slowdown to date has been felt in private client firms. Large corporate firms are still thriving, but 2008 may be more challenging.

With regard to mid-size firms, they will be vulnerable from above – the larger firms having now become interested in their clients. They will also be vulnerable to intense price competition from below (from well-organised private client firms). Much of the improved competitiveness in Irish law firms has happened in this mid-sized sector of the market, and these firms are in a better position to withstand more intense competition than previously. Lower cost bases, higher access to partners, a focus on niche areas, and more sophisticated management means these firms are well equipped.

Competitive streak

At the private client end of the market, the effects of the slowdown are already being seen. This is apparent, not so much in fee income (solicitors' fees are paid at the end of the property cycle), but with the level of new instruction coming in. There is no doubt that there will be casualties in the market, with several firms simply going out of business. Competition is likely to become even more intense, and lower returns can be expected. To be competitive at this end of the market requires organisation, technology, and management – all of which are easier in a larger firm.

It is therefore inevitable, as the economy changes, that we will see larger private client firms. The days of the one-person firm are probably coming to an end – it has become too demanding to compete at this size.

As the economy changes and its effects begin to be seen, there are four critical areas that need to be looked at:

- Identifying a market position and refocusing,
- An effective overheads review,
- Managing your fee earners, and
- Marketing and retention of existing clients.

In a slow economy, the most successful firms will be those with an effective and robust strategy. In every downturn, the strategically-focused firms come out stronger than when they went in. Less strategic firms fall behind the competition and almost never make up the gap created in the downturn.

An effective strategy enables a firm to compete more effectively in its target work for its target clients. An effective strategy requires choices, and this means choosing to target some client types rather than others, and choosing to build some practice areas over others. Firms cannot be all things to all people.

Effective strategies are built on:

- A deep understanding of current market trends and changes in competitiveness,
- A deep understanding of a firm's current position within a dynamic market context,
- The selection of a future market position that is real and recognisable, and
- The identification of core client types and core practice areas consistent with the desired market position.

This enables a firm to identify how it will need to compete more effectively in the future and what it will have to do to achieve a better level of competitiveness. Clear goals, targets and actions can be established to move the firm towards its desired market position.

Count those beans

Firms have become loose in terms of overheads: there is undoubtedly some money to be saved by most firms in this area. Having said that, this is simply a housekeeping exercise that needs to be done – no firm ever became highly successful by completing this task on its own. Don't change the biscuits! Well-managed firms always control their overheads, even in boom times.

There are two types of overheads: ones that are necessary to do business and others that are investments in the future. The temptation when the economy slows is to cut out any discretionary costs, many of which are investments in the future. Examples of this are marketing costs, upgrading IT systems, precedent agreements and so on.

When reviewing overheads that are part of the

cost of doing business, there are a number of things to look at:

- Ask yourself if you can buy better. This does not always mean changing suppliers, but suppliers can become comfortable in arrangements over a period of time, and even asking the question can result in significant changes.
- Savings are not real savings where they affect the service levels to your clients. For example, reducing legal secretaries to below the level required to serve clients results in documents being delayed and solicitors typing their own documents. This means that you have someone doing a €12-an-hour activity when the market will pay them multiples of that rate for their services.
- In times of a slowdown, it becomes even more important to invest in the future. Many firms actually increase their marketing spend at this time, and if you have not put the appropriate systems, precedents and technology in place, you need to do so rapidly. This becomes harder when profits are falling, but is an essential for any firm to remain competitive.

In summary, question everything, but keep an eye on not damaging your service levels – and keep investing.

Herding cats

Overheads reviews in many firms are confined to printing, stationery and other costs. This misses the point, with normally 70% of overheads being in staff costs. Managing your fee-earners is an essential part of the process, and it becomes even more important in a slowdown. The most important figures are the partners, and management should start with the partners. The role of the partners has changed significantly over the past five years.

In well-managed firms, partners have broadened their role from a client-servicing role only to a business-generation, business-management and coaching role. Many firms now are putting in place a partners' performance pool to differentiate the performance levels between partners. Others are going further and putting into place full performance-management systems for partners. Today's partner is expected to generate new contacts, generate new work from existing clients and run a business unit that manages other fee-earners profitably. This is all in addition to servicing work that is more complex than that given to associates and assistants. The first recommendation is to start managing the partners.

If partners are achieving high performance levels, it is inevitable that associates and assistants will follow. Firms should outline to associates and assistants what is expected of them, what career path they should follow, what they need to do to get to the next level, and communicate with them at least once a year on how they are performing.

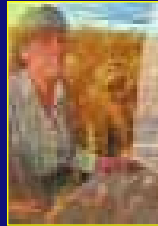
“The days of the one-person firm are probably coming to an end – it has become too demanding to compete at this size”

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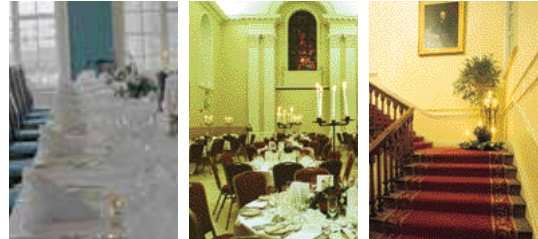
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(REPORT OF THE NATIONAL ADVISORY COMMITTEE
ON PALLIATIVE CARE, 2001)

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These reviews should also be carried out with secretarial and other support staff.

Salary and bonus levels for all staff will stabilise and potentially fall after years of very high salary inflation. Solicitors and staff will be easier to get in six months' time. If we have a sharp slowdown, full employment is unlikely to continue, given the numbers entering the profession. Some relief for employers, but bad news for employees.

Circle of trust

When work tightens, it becomes even more important to concentrate on marketing, building and maintaining current client relations. Other firms are becoming more active in these areas, and if you don't protect your own and try to grow, the firm's work will be picked off.

The starting point and most important challenge is to maintain existing work. It is a very interesting exercise to do a client satisfaction survey – while most of us are petrified of the potential responses, most clients are very pleased to be asked, and the exercise is invaluable. If there are problems in the relationship, this survey identifies them and you get a chance to address the issues. Minding existing relationships is primarily done by giving the client a very good service at a fair cost. Look at problems

through your client's eyes. Clients love a proactive worrier, someone who thinks and cares about issues as they see them. As well as protecting existing relationships, marketing involves looking for new opportunities and new business. There is no doubt that the firms that are out there and have the courage to ask for work, backed by high-service levels, are the most successful.

Get out and compete

In conclusion, we appear to be heading for tougher times, and the effects are already visible in private client firms. There are growth areas such as family law and an increase in litigation, and new types of work are emerging, for example, mental health commission work, tax planning for the individual, and so on. Economy-dependent work will be there, albeit in lower volumes than in the boom of the last five years. Mergers are inevitable in a changed environment.

Recognising this change is the first step, addressing the challenges presented is the next. Don't batten down the hatches – it's time to get out and compete! **G**

David Rowe is managing director of Outsource, a company that provides practice management and financial management support to Irish law firms.



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

HEALTH REPAYMENT SCHEME

The Health Repayment Scheme is repaying long stay charges, wrongly taken for public nursing home and residential care. Charges paid for care in private nursing homes are not recoverable under the scheme except where the patient resided in a public contracted bed.

Any living person who has/had full eligibility (i.e. entitled to a medical card) and who wrongfully paid long stay charges or had money deducted from their pension for long stay in-patient services is entitled to a repayment. The Estates of those persons wrongfully charged and who died on or after 9th December 1998 are also entitled to a repayment under the scheme.

It was estimated at the start of the scheme that up to 70,000 potential claims could be made under the scheme. The Scheme was launched in August 2006 but only 30,000 claims, of which 19,000 refer to Estates, have been received to date. It is estimated that there are approximately a further 30,000 – 35,000 potential estate claims which have yet to be submitted to the Scheme Administrator.

In excess of 6,000 claims have been processed to date at a value to clients in the sum of €115m. The average payment under the scheme is €20,000.

As the Scheme's closing date is the 31st December 2007, claims should now be submitted to the Scheme Administrator without further delay and addressed to The Health Repayment Scheme, P.O. Box 330, Tralee, Co. Kerry. Further information in regard to the scheme is available from the Scheme's Local Information Line No. 1890 886 886 and the Scheme website www.repay.ie.

Scheme Administrator KPMG and McCann FitzGerald appointed pursuant to Health (Repayment Scheme) Act 2006

Until recently, the only sanction the Pensions Board could impose for breaches of the *Pensions Act 1990* was prosecution. But with the introduction of on-the-spot fines, the board now has a new weapon in its armoury. Peggy Hughes breaks out her whisk

AS SURE AS EGGS is

Until 17 September 2007, the only sanction the Pensions Board could impose for breaches of the *Pensions Act 1990* was to prosecute the offending party. Given the nature of the breach in some instances, however, prosecution could have been regarded as the legal equivalent of using a sledgehammer to crack a nut. Thanks to the introduction of an on-the-spot fine regime, the Pensions Board now has the option to prosecute or not to prosecute, and thereby adopt the most proportionate course of action.

Pensions have become a very hot topic in recent times. Most of the attention focuses either on encouraging everyone to make adequate personal pension provision or on the continuing controversy surrounding employers' attempts to extricate themselves from the expense of providing retirement income on a defined benefit basis.

Eggs in one basket?

In Ireland, employers are currently required either to provide access for their employees to a pension scheme or to a personal retirement savings account (PRSA). The majority of pension schemes in Ireland are established under trust by a trust deed and governed by a related set of scheme rules. This is a requirement to avail of certain tax incentives, and it

also ensures that the assets of a pension scheme are held separately from the assets of the employer – thereby affording considerable protection to the assets of the pension scheme. Trustees are appointed to manage and administer such schemes.

The two main parties involved in the operation of pension schemes, therefore, are the sponsoring employer and the trustees. The duties and obligations of both these parties – and of trustees in particular – are many and varied and have become increasingly complex in recent years. Compliance with pensions legislation and the risk of prosecution for related breaches are now issues of increasing concern for employers and pension scheme trustees.

Pension schemes and PRSAs are regulated in Ireland by the *Pensions Act 1990*, as amended, and related regulations. The Pensions Board is the regulator for pension schemes and PRSAs and was created under the terms of the act. It is responsible, among other things, for the monitoring and supervision of pension schemes and PRSAs. In fulfilling this role, the board monitors compliance by employers and trustees with the provisions of the act.

Cuckoo's nest

Until 17 September 2007, a breach of a provision of the act was an offence for which the only sanction available to the board was prosecution of the

MAIN POINTS

- *Pensions Act 1990*
- Breaches of the act
- New sanctions



EGGS

offender, regardless of the seriousness of the offence. A person who is found guilty of an offence under the act is liable on summary conviction to a fine of up to €5,000 or imprisonment for a term of up to one year, or both. A person is liable on conviction on indictment to a fine of up to €25,000 or imprisonment for up to two years, or both.

The board takes its role in monitoring compliance very seriously and, certainly over the past few years, has adopted a consistent approach in prosecuting for breaches of the act as part of its role in the promotion and enforcement of compliance with statutory requirements. The board's prosecutions have been successful and well

publicised within the pensions industry, and few would argue with the concept and benefits of enforcing legislative obligations that protect the interests of pension scheme members and their pension entitlements.

However, the proportionality of the sanctions available in relation to the seriousness of certain breaches has been an issue requiring attention. Additionally, prosecuting for breaches can be protracted in nature, and an alternative means of enforcing compliance with statutory obligations was a further consideration. Section 39 of the *Social Welfare Law Reform and Pensions Act 2006* introduced a new on-the-spot fine regime. Under this regime,

TRUSTEE AND EMPLOYER CHECKLISTS

The Pensions Board has published trustee and employer checklists for on-the-spot fines, aimed at helping trustees and employers to avoid the imposition of such fines. This is available from its website, www.pensionsboard.ie.

Additionally, solicitors' firm William Fry has produced a practical four-step self-assessment 'pension scheme health check' audit tool for this purpose, summarised in the acronym ARIA ('assess, review, identify, act'). This

free practice aid for employers and pensions scheme trustees will assist in keeping on top of the growing list of administrative and compliance duties, including compliance with the on-the-spot fine regime. The ARIA pension scheme health check can be used in conjunction with the board's checklist, which relates specifically to the new on-the-spot fine system. Copies of the William Fry health check may be obtained by contacting alison.stapleton@williamfry.ie.

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LOOK IT UP

Legislation:

- *Pensions Act 1990*
- *Social Welfare and Pensions Act 2007*, section 37
- *Social Welfare Law Reform and Pensions Act 2006*, section 39

Literature:

- The Pensions Board document, *Trustee and Employer Checklists – On-the-Spot Fines*, can be downloaded as a pdf at www.pensionsboard.ie (type 'Trustee and employer checklists' into the search box on the homepage to locate the file)

the board may notify a person in writing that it is alleged that an offence has been committed and that if, within 21 days of the notice, the person has remedied the offence to the satisfaction of the board and paid the appropriate fine, a prosecution will not be instituted. Section 37 of the *Social Welfare and Pensions Act 2007* amended section 39 and set out those provisions of the act that, if breached, would attract an on-the-spot fine. These provisions include breaches of pensions disclosure of information regulations, failure to update pension scheme registration details and failure to respond to a request by the board for information.

Rotten yolk

This new regime of on-the-spot fines for breaches of provisions of the *Pensions Act* was only fully introduced on 17 September, following the signature by Minister for Social and Family Affairs Martin Cullen of the necessary commencement order.

The introduction of this alternative to prosecution was deliberately delayed to allow employers and trustees of pension schemes a period of grace in which to review their schemes and ensure that they are fully compliant with the relevant legislative provisions.

On-the-spot fines will not apply to all infringements of the act, but only to less serious breaches. The level of the fine has been set at €2,000 and cannot be paid out of the resources of the related pension scheme. While automatic prosecution will continue to apply in respect of more serious breaches of the act, the new regime provides the board with a more efficient and proportionate response to less serious infringements.

It should be noted that the introduction of the on-the-spot fine system coincides with the board's adoption of a tougher approach generally to dealing with breaches of the act. Employers and pension scheme trustees have been warned of this new approach and would be well advised to carry out a thorough compliance review of their schemes to the extent that they have not already done so in recent times.

Now that the board has a new sanction at its disposal to deal with less serious breaches of the act, it will be interesting to follow the enforcement of this new system and to see how the board approaches prosecutions in future. In particular, will we see a change in the profile of the type of offender being prosecuted? What is clear is that the board has stated publicly that a more aggressive approach to handling breaches of the act is on the cards, and all stakeholders have been placed on notice accordingly. **G**

Peggy Hughes is an associate solicitor at William Fry, specialising in pensions law.

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The LRC recently published a consultation paper on reform and consolidation of the *Courts Acts*. Claire Bruton outlines its main recommendations

The Law Reform Commission has recently published a consultation paper, *Consolidation and Reform of the Courts Acts*. The paper is the result of a joint project between the commission, the Department for Justice, Equality and Law Reform, and the Courts Service. The paper is accompanied by the text of a draft *Consolidated Courts Bill* on CD-ROM, which includes the existing text of provisions, both pre-1922 and post-1922, concerned with the jurisdiction of the courts.

The aim of the commission's project on the *Courts Acts* is to provide a restated, modern and accessible *Courts Act* that sets out the provisions

determination is made.

The commission examined the position regarding the case-stated procedure in England and Wales. There is no form of consultative case stated. Instead, there is provision for an appeal by way of case stated. This examination led the commission to consider whether it is appropriate for there to be two forms of case stated available. The commission came to the view that the consultative case stated is a very valuable legal tool, as it allows for an interlocutory decision to be made by a higher court and for the lower court, having heard the evidence, to apply the decision. The view was also expressed that the form of appeal by way of case stated does

COURT IN

relating to the jurisdiction of each of the permanent courts in this jurisdiction.

In addition, the consultation paper examined a number of specific substantive areas relating to the jurisdiction of the courts that are worthy of further consideration and made a number of recommendations in this regard.

As part of the consultation paper, eight discrete areas were focused on, with a view to ascertaining whether reform is necessary. Should any reform of these be required, an amendment to provisions of the *Courts Acts* would be necessary.

Case-stated procedure

In general terms, the case-stated procedure allows a court to acquire an opinion from a higher court on a question of law. The commission considered the case-stated procedure in detail and examined whether the two forms of case stated are required in this jurisdiction. An appeal by way of case stated, which is only available in the District Court, must be invoked after a decision has been given in the matter by a lower court. By contrast, a consultative case stated from the District Court, Circuit Court or, in limited circumstances, the High Court, can be made at any stage during proceedings before a final

not serve a comparable function; instead, an ordinary appeal is the more appropriate appeal mechanism. On that basis, the commission provisionally recommended that the form of appeal by way of case stated be repealed and that consultative case stated continue to be available from the District Court, Circuit Court and High Court.

The *in camera* rule

The primary issue discussed in this part of the consultation paper is whether, in exceptionally sensitive cases not within the *in camera* rule, parties should be permitted to maintain proceedings using a pseudonym or fictitious name. Currently, this is not permitted in this jurisdiction. The issue of anonymised names in circumstances other than the prescribed cases was discussed recently by the European Court of Human Rights in *D v Ireland*, and the commission examined the use of pseudonyms in sensitive cases in the US. The commission concluded its discussion by provisionally recommending that a general rule be provided protecting the anonymity of parties in exceptional cases that are not within the *in camera* rule. The media and reporters would be permitted

MAIN POINTS

- Substantive areas of reform
- *In camera* rule
- Criminal procedure



THE ACT

to attend and report on the proceedings, but the names of the parties to the proceedings would be protected.

Statutory jurisdiction

The commission considered the removal of jurisdiction from the courts and the vesting of such jurisdiction in statutory bodies. It noted that this trend is an increasing one, but did not express a view on it. The consultation paper focuses extensively on the issue of fixed-charge penalties (commonly but inaccurately referred to as on-the-spot fines), as these statutory devices divert minor offences from courts.

With regard to fixed-charge penalties, the commission highlighted a number of recent developments in this jurisdiction. This included the introduction of such devices into more serious offences, such as drink driving, and a provision that, if commenced, will allow revenue generated by fixed-charge penalties to be available for use by the agency that used the device. The commission expressed concern at these developments. Finally, the commission provisionally recommended that detailed criteria be drafted to ensure a consistent policy be applied to offences punishable by a fixed

penalty, and these include:

- Proportionality between harm and degree of culpability,
- Recourse to the courts should be available,
- The fixed-penalty fine should be relative to other fixed-penalty fines, depending on the seriousness of the offence,
- Fixed penalties should only be available in relation to summary offences, and
- Defendants should not face a term of imprisonment in default of payment of a fixed penalty.

Appeals

The consultation paper also considered appeals in both criminal and civil matters, concentrating mainly on the leave to appeal requirement. On civil appeals, the commission provisionally recommended that all civil appeals be by way of leave of the court at first instance and, where such leave is granted, civil appeals should be based on the transcript of the original trial and on the written submissions of the parties to the case.

The primary issue identified by the commission on appeals in indictable matters is whether they should continue to require leave to appeal and, if so,

SUBMISSIONS BY 30 NOVEMBER

The commission welcomes submission on any aspect of its consultation paper, in particular its provisional recommendations. Any submissions received will be taken into account during the consultation period prior to the publication of its final report, which will contain a final draft *Consolidated Courts Bill*.

The date for the receipt of submissions in respect of the consultation paper is 30 November 2007 and can be made by email to: info@lawreform.ie, or by post to Secretary/Head of Administration, The Law Reform Commission, 35-39 Shelbourne Road, Ballsbridge, Dublin 4.

which court should hear such an application. The commission noted the well-recognised fact that the leave to appeal as it currently operates does not act as a filter for unmeritorious appeals. The commission provisionally recommended that the leave procedure in criminal appeals be amended so that the trial judge must ensure in advance of the leave hearing that the procedural aspects are satisfied, so that the Court of Criminal Appeal alone has jurisdiction to decide whether leave should be granted, based on written submissions only.

Monetary limits

There has been no change to the general monetary limits in the civil jurisdiction of the courts since 1991. Provision was made in the *Courts and Court Officers Act 2002* to increase the jurisdiction of the District Court from €6,348.69 to €20,000 and the Circuit Court from €38,092.14 to €100,000, but

the provisions have not been commenced. The commission approved of the recommendation of the Legal Costs Implementation Advisory Group that the monetary limits of the District Court and Circuit Court in civil matters be increased to the levels set in the 2002 act, but that these increases not apply in personal injuries claims.

Rules of courts committees

The commission examined the position of the rules of court committees, who draft the statutory rules required to implement in practice any new legislation relevant to the courts. There are three rules of court committees in this jurisdiction: the Superior Rules of Court Committee, the Circuit Court Rules Committee and the District Court Rules Committee.

The specific issues considered by the commission were:

- The *ad hoc* nature of administrative support to the committees,
- The lack of formal provision for coordination or liaison between the different rules committees,
- Whether the jurisdiction-based model of rules of court committees was the most appropriate model for this jurisdiction,
- Whether a system of public inquiry in relation to proposed rules should be initiated or whether meetings of rules committees should be in public,
- Whether lay people should sit on the rules committees, and
- Provision of information/advance warning of legislative changes.

The commission also considered whether the rules committees should act subject to general policy objectives. The rules of court committees currently act independently and report annually to the Minister for Justice on the changes that they consider should be made in practice, procedure and administration. The position in other jurisdictions is rather different, with rules of court committees operating subject to extensive policy objectives. The commission recommended that the guidelines be included in legislation regarding the rules committees, which would be considered by them when drafting rules of court. For example, rules should be drafted to enable a simple court process, and rules should be drafted using plain language.

Criminal procedure

The commission considered the issue of summary trial of indictable offences, with particular emphasis on the right of election. It is clear that there is no policy regarding the types of summary offences triable summarily to which the right of election attaches and those to which it does not. There has been considerable debate in Britain on the position there that all summarily triable offences attract a right of election. The commission concluded that it

LOOK IT UP

Cases:

- *D v Ireland*, application number 26499/02, Decision of the Fourth Session, 26 June 2006

Legislation:

- *Courts and Court Officers Act 2002*
- *Courts (Supplemental Provisions) Act 1961*, sections 45(1), 51, 52
- *Courts of Justice Act 1936*, section 38(3)
- *Courts of Justice Act 1947*, section 16
- *Road Traffic Act 2006*, section 5
- *Safety, Health and Welfare at Work Act 2005*, section 79(3)
- *Summary Jurisdiction Act 1857*, section 2

Literature:

- *Consolidation and Reform of the Courts Acts*, Law Reform Commission (LRC CP 46-2007)
- *Criminal Jurisdiction of the Courts*, Working Group on the Jurisdiction of the Courts (Pn 237 May 2004)
- *Report of the Legal Costs Implementation Advisory Group* (Pn A7/0027, Stationary Office, 2006)

would be beneficial for it to receive submissions on the type of offences to which the right of election should attach.

Allocation of cases

The consultation paper also considered the allocation of cases between the Circuit Criminal Court and Central Criminal Court in criminal matters. As there are now only limited rules for the transfer of cases between the courts, the jurisdiction of the Circuit Criminal Court and Central Criminal Court is rigid, in that, in practical terms, the Circuit Court deals with all indictable matters with the exclusion of murder and rape. The commission noted that the current allocation cannot take the complexity of the case into account in its allocation to the Circuit Court or Central Criminal Court.

The Working Group on the Jurisdiction of the Courts recommended that the special and rare offences traditionally conferred on the Central Criminal Court, such as genocide and treason, should remain exclusively assigned to that court. They considered rape and murder cases as separate to the special jurisdiction of the Central Criminal Court and recommended that, on the return of a rape or murder case to the Circuit Court, there should be a hearing at the earliest opportunity upon notice to the DPP and the accused. In deciding whether the case should remain in the Circuit Court or be transferred for trial to the Central Criminal Court, the working group recommended that the judge should have regard to a number of matters, including the nature of the case, the facts alleged, and the degree of gravity or complexity of the case on its facts.

In other cases (that is, not the special cases remaining within the jurisdiction of the Central Criminal Court, or murder or rape), the working group recommended that the DPP or the accused



PICT: GIAN REDMOND

would be entitled to apply on notice to the court, no later than 14 days following the return for trial, for an order transferring the case to the Central Criminal Court, in which case the judge would have to consider the same criteria as above.

As the commission was aware that the recommendations of the working group were being considered by government at the time of the publication of the consultation paper in July 2007, it did not make any proposal for reform on the issue. **G**

Claire Bruton is a practising barrister and was principal legal researcher on the LRC consultation paper.

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The BER necessities

Since January 2007, a 'building energy rating' certificate is required for dwellings that have applied for, and been granted, planning permission. Such certificates are now an essential element in conveyancing. Brenda Jordan checks your insulation

Building energy rating certificates are now an essential element in conveyancing. No sale can be completed without a valid building energy rating certificate issued by Sustainable Energy Ireland (SEI). SEI is the government agency that promotes and assists the development of sustainable energy. New dwellings for which planning permission has been sought and granted since January 2007 must have an official building energy rating (BER) certificate. Each dwelling is rated by an SEI-registered assessor, which results in a label, not unlike the efficiency rating given to white goods such as freezers, fridges and washing machines.

The BER is expressed in the form of performance bands, 'A' being the most energy efficient, to 'G' – the least energy efficient. In addition, the rating provides an estimate of the running costs for the dwelling for the coming year, based on current fuel prices.

BERly legal

Section 7 of the *European Communities Energy Performance of Buildings Directive* (EPBD) requires that, when a building is constructed, sold or rented,

a BER detailing its energy consumption must be available to the prospective purchasers or tenants. A BER gives an objective scale of comparison for the energy demand and energy performance of a building. The BER allows prospective buyers and tenants to factor energy performance and costs into their comparison of different properties. This information will form the basis of a BER certificate (illustrated on p41).

The BER must be accompanied by an advisory report. It is valid for up to ten years unless there is a material change in the building, for example, extension, significant deterioration in the fabric of the building, or change of heating system or type of fuel used in it.

A person who is required to produce a BER certificate and related advisory report under the regulations warrants that these correspond to the current BER record for the building on the BER register. The BER certificate can be validated by entering the BER number into the SEI website (www.sei.ie – click on 'building energy rating', 'BER register'). If correct, the relevant BER details will be displayed on screen.

The BER certificate and related advisory report will be produced to any purchaser or tenant before

MAIN POINTS

- Building energy rating certificates
- *European Communities (Energy Performance of Buildings) Regulations 2006*
- Offences



Some new buildings don't have room enough to swing a cat, let alone a small boy

sale or letting, and on demand to the building control authority in whose functional area the building is situated.

The regulations require a BER for:

- New dwellings that have applied for and have been granted planning permission on or after 1 January 2007,
- New non-residential buildings that have applied for and have been granted planning permission on or after 1 July 2008, and
- Existing buildings when let or sold on or after 1 January 2009.

These operative dates will **not** apply to:

- New dwellings for which planning permission is sought on or before 31 December 2006 and that are substantially completed by 30 June 2008,
- New non-residential buildings for which planning permission is sought on or before 30 June 2008 and that are substantially completed by 30 June 2010 (except where such a building is offered for a second or subsequent sale/letting).

BER-faced cheek

Failure to comply with the regulations has serious ramifications for any party involved in the

BER WITH US

The genesis of the BER certificate is the *Kyoto Protocol*, signed by 180 countries – including Ireland – in 1997. As a result, the EU has identified the reduction of greenhouse gas emissions as an important objective. The most significant greenhouse gas is carbon dioxide (CO₂). Almost half of the energy-related CO₂ emissions derive from energy use in buildings. EU research has indicated that CO₂ emissions from buildings could be reduced by as much as 22% through improved energy efficiency. In 2000, the EU Commission's Action Plan on Energy Efficiency indicated the need for the introduction of specific measures in the building sector to tackle the problem.

In response, the commission published the proposed *Energy Performance of Buildings Directive* (EPBD) in May 2001. It was adopted in December 2002. Its objectives are to promote improved energy performance of buildings within the EU and to assist the convergence of building energy standards towards those of member states that already set high levels of energy performance.

The *European Communities (Energy Performance of Buildings) Regulations 2006* transposed and implemented articles 5 and 7 of the EPBD.

conveyancing process.

A person commits an offence if:

- They contravene any part of SI 666/2006 – this includes selling or letting a building without a BER certificate,



Which colour is YOUR home?

Since 1st January 2007 all new homes for which planning permission has been applied for and granted must have a Building Energy Rating (BER) Certificate

National Energy Assessors
Tel: 1890 793 793
Web: www.nea.ie
Email info@nea.ie



The BER Certificate tells you how energy efficient your home is. The BER is an energy label for buildings similar to that used on electrical appliances. Good ratings will help you reduce your home running costs. National Energy Assessors services include the provision of BER Certificates, Action Plans on how to improve the energy efficiency and energy rating of your home or development, Grant Applications, Thermal Imaging and Air-Tightness Tests.



From January 2007 BER Assessors will be required to carry out a BER on all new buildings or on all existing buildings for sale or rent.



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BER IN MIND: SOME KEY QUESTIONS

How is BER calculated? A BER for a dwelling is calculated using the dwelling energy assessment procedure (DEAP). The DEAP is the national methodology adopted for calculating the energy rating of new homes. BER calculations take into account the type of building fabric, ventilation, space and water heating, and lighting. These values, coupled with measurements taken from drawings of the property, culminate in the achievement of a BER certificate.

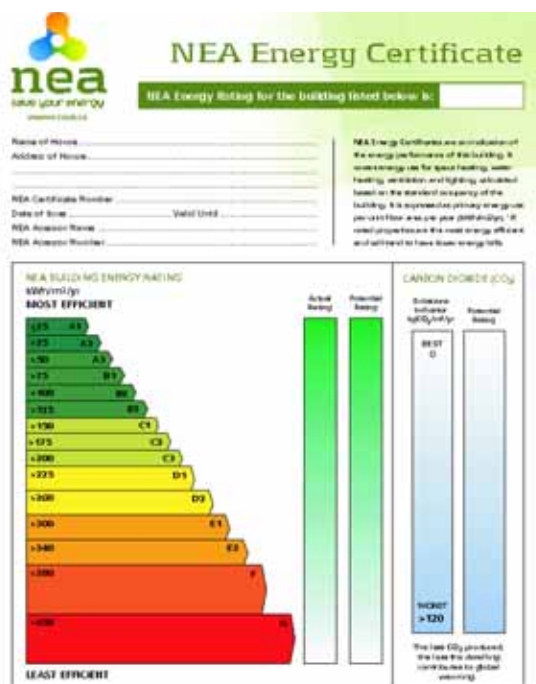
How do I purchase a BER certificate? A BER certificate can only be issued by a registered BER assessor. Registered BER assessors can be found on the SEI website. A purchase of a BER certificate in respect of a building is made by the owner of the building (or their agent). This certificate is issued once SEI validates that all information pertaining to calculations in

DEAP are correct. The owner of the property will then receive the BER certificate through their BER assessor.

Are there any exceptions? Yes. The categories of building to which the regulations do not apply are set out at section 3 of the statutory instrument and include national monuments, protected structures, buildings used as a place of worship and certain agricultural and industrial buildings.

Dates for your diary (transitional arrangements):

- **1 January 2007** – new dwellings that have applied for and have been granted planning permission,
- **1 July 2008** – new non-residential buildings that have applied for and have been granted planning permission,
- **1 January 2009** – existing buildings let or sold.



The penalty for all of the above offences on summary conviction is a fine not exceeding €5,000.

In addition, at section 23.3, a person who:

- Fails to permit an inspection of a building,
- Without reasonable excuse, fails or refuses to comply with any request or requirement of an authorised officer,
- Obstructs, impedes, interferes with or assaults an authorised officer in the course of his/her duties, or
- Gives false or misleading information in a material respect to an authorised office is liable on summary conviction to a fine not exceeding €5,000 or a term of imprisonment not exceeding three months.

Grizzly Adams

Where a building is being offered for sale or letting on the basis of plans and specifications, a provisional BER certificate may be available. A provisional BER certificate lapses on completion of the building or after 24 months, whichever is the sooner.

On completion of construction, a full BER certificate and relevant advisory report is required to be presented to the purchaser or tenant prior to taking occupancy of the building. This full BER certificate is purchased by the seller or landlord of the property.

The ‘green’ issue, then, is no longer ‘a nice to have’ – it’s imperative, because, since January 2007, a BER certificate is essential before you can close a conveyance. **G**

Brenda Jordan is managing director of National Energy Assessors. NEA is approved by the SEI to carry out energy assessments.

- They, as registered BER assessors, certify a building in which they have a vested interest,
- They purport to be a BER assessor for a class(es) of building to which they have not achieved the relevant qualifications or registration,
- They make a false or misleading statement or a statement that is false in a material fact or fail to disclose a material fact,
- They fail to comply with a demand to return the relevant BER certificate and advisory report for a building to the issuing authority within 14 days, where the BER certificate has been revoked by the issuing authority,
- They alter or deface a BER certificate and related advisory report.

LOOK IT UP

Legislation:

- *Energy Performance of Buildings Directive, 2002/91/EC, 16 December 2002*
- *European Communities (Energy Performance of Buildings) Regulations 2006, SI 666 of 2006*

Websites:

- Sustainable Energy Ireland – www.sei.ie
- Power of One – www.powerofone.ie – taking individual responsibility and changing our behaviour in small ways, we can help save energy and money
- EASCA – www.easca.ie – promotes the viability of sustainable construction in Ireland

KERRY'S

They have some strong views on the state of the legal profession and the role of its representative and regulatory body down in Kerry. Colin Murphy takes note

The year was 1990. The country was on the cusp of a liberal revolution. Mary Robinson had just won the presidency and, two years later, Labour would be swept into coalition government on a 'Spring tide'.

But one corner of Ireland, at least, was holding out.

In Tralee, Co Kerry, the county's solicitors arriving at the annual dinner of the Kerry Law Society on the first Saturday in December could, as was traditional, bring two guests each. In a profession still dominated by men, you might think they'd use their guest allowance to introduce a little femininity into proceedings. But the society's rules on this question were strict – no female guests were allowed.

The fact that women solicitors were welcome was perhaps an aberration overlooked by the society's founders in 1932.

By 1990, though, change was inevitable, albeit resisted. That December, the solicitors and their guests had to pass a picket by a women's organisation to get into the dinner. Shortly afterwards, the 'no women guests' rule was changed. But it wasn't changed to 'women welcome'. It was changed to 'no guests'.

Eye remember the day

For the three committee members of the Kerry Law Society gathered in the offices of Galvin Broderick, Solicitors, on Ashe Street in Tralee, to meet the *Gazette*, the 1990 picket belongs to a different era. Not just attitudes have changed – the demographic makeup of the profession itself has been turned on its head, with women now in the majority among young graduates and trainees. And the role of the society has changed greatly also, partly to reflect the needs of its

MAIN POINTS

- A reinvigorated society
- CPD "a nuisance"
- Law Society has "failed to represent our best interests in recent years"
- Concerns over 'cut-price conveyancing'



Canice Walsh, Louis O'Connell, Michael Stack and John Galvin



eye

members in a profession opening itself up to more competition.

Of the three solicitors here, just one was a member in 1990 – John Galvin, current chairman of the society, and 25 years a solicitor. So did he pass the picket? “Of course – we all did!”

In those days, and until recent years, the annual dinner and AGM was pretty much all the society did – it was “pretty moribund”, he says.

Now, the society is thriving, at least according to the three proselytisers gathered here on a Friday morning.

There is an annual day at the races, at Listowel. “Any similarity between it and the Marx Brothers is purely coincidental,” says John Galvin (who should be good at running events, having formerly spent his Augusts doing PR for the Rose of Tralee). There’s a golf outing. In deference to the national obsession with weekend city breaks, there is also an annual “international conference”. And the society has taken on board the organising of an extensive range of continuing professional development (CPD) courses locally.

CPD was the catalyst for the reinvigation of the Kerry Law Society. In 2003, the Law Society introduced a requirement for solicitors to

undergo a minimum of 20 hours of CPD every two years.

According to Alison Egan, CPD executive in the Law Society’s Education Department, of the 15 hours of verifiable group study, 12 of these must be general legal study and three must be ‘management and professional development’ – which is anything relevant to practice management.

The advent of CPD caused the Kerry Law Society “to become far more proactive”, says John Galvin. CPD requirements were more onerous for solicitors outside of the urban centres, as they had to deal with the extra costs of getting to courses and of being out of the office.

Eyeing the clock

That wasn’t the only problem. Canice Walsh is critical of “the quality of what you’re going to listen to ... Lectures are in a monosyllabic tone that puts you to sleep. You’re there essentially to clock up the hours.” All three of the committee members here agree on that prognosis of CPD. It is “a nuisance,” they say.

“I don’t think anybody has any difficulty with continued development, but it has become a racket,” says Mike Stack. As evidence, they cite the amount of

junk mail they receive from organisations offering CPD courses.

It was in response to the inconvenience and cost of attending Dublin and Cork-based CPD courses that the society undertook to organise courses locally.

As Canice Walsh says, these courses cover “matters more relevant to rural practitioners”. John Galvin summarises the other benefits: “The cost is quite low, they’re on at reasonable times, and travelling times are low.” The courses are held in Tralee and Killarney. Costs are kept down in part by seeking sponsorship – in some instances, they’ll invite a bank to provide a speaker, and the bank will sponsor the lecture. In other instances, speakers give their time for free and the only cost is for rental of a room. (See panel for a sample range of lectures that have been organised by the Kerry Law Society.)

Inconvenient as it may be, it would seem that the Kerry Law Society has responded to the challenge posed by CPD with alacrity. Not only can members now make up their CPD hours in Tralee and Killarney, but also in the finest cities of Europe. With CPD provoking the society into renewed activity, that activity has extended into organising an annual international conference.

As the society’s ‘social secretary’ (it’s not clear from the tone in which this is said whether it’s a formal title or not), Mike Stack says that the annual conference involves “CPD lectures during the day and mild levels of socialising at night”. It takes place over the May bank holiday weekend and has taken them to Florence and Madrid so far, with Barcelona next on their itinerary.

Eye of the tiger

At 30, Mike Stack is the youngest of the three members here and, as befits a ‘Young Turk’, is open-necked, with a smart but more casual suit than his more traditionally attired colleagues. The social element of the annual foreign jaunt is crucial, he says – it provides a much-needed ‘bonding session’.

Similarly, ordinary CPD events during the year provide an opportunity for a bit of socialising. The day we meet, Stack is due to meet a group of the younger solicitors in town for lunch.

The practice of law is critically different in rural towns compared with the urban centres, Stack says. “In Tralee, you’re going head to head [in court] with the guy that you’re having lunch with ... You’re dealing with the same people every day.” Getting on with the opposition becomes a part of the job.

Mike Stack should know. When he first moved back to Kerry after training in Dublin, he “had to be taken aside and reined in”, he says, chuckling. “I was way over the top. I was sat down and told, “This is not how it’s done’. They were wise words.

“Down here, it’s about getting the job done. In Dublin, it’s about fee-building, making it difficult for the other side. In Dublin, you’re banging out litigation. ‘Injunction’ is drummed into your head.

Down here, what you’re about is getting things back on track and the deal done.”

The difference, he summarises, is between a ‘commercial business’ and ‘personal services’. Or as Canice Walsh puts it, “It’s files versus personalities.”

In John Galvin’s words: “You know so many people that you’re dealing with personally. What you want to be able to do is go out on Saturday night and have a pint and not be worried about meeting someone.”

Critical eye

There is some criticism of the Law Society also. “There is a perception out there that the Law Society has failed to represent our best interests in recent years,” says John Galvin – a perception that he endorses. “I don’t think the Law Society can continue going forward riding both horses. The feeling down here is it should be more of a trade union for us. They seem to be more comfortable in a regulatory role. There is a perception that the Law Society represents the larger firms and their interests.”


And there is concern, too, for the financial implications of changes in the profession. As Mike Stack says, “Everybody’s incomes are going down with competition, and outgoings are skyrocketing.” He sees ‘time-recording’ or time-based charging coming in here, as it has in Britain, making billing both more transparent and more reflective of the actual work expended for a client.

They also cite ‘cut-price conveyancing’ as an issue that could lead to problems in the future. For Canice Walsh, “If you want a good service, you should be prepared to pay for it. Doctors, accountants, dentists aren’t undercutting each other.”

They fear that cut-price conveyancing cannot reflect the work properly required in conveyancing, and that shortcuts are inevitable – something that will ultimately lead to claims against solicitors and to a consequent rise in professional indemnity costs across the board.

Closer to home, though, the Kerry Law Society has been successfully reinvigorated. It is time, they believe, that it receives some legal attention itself. This is the 75th year of the society, and its constitution, they say, is due an overhaul – something John Galvin hopes to bring before the AGM this December. The most significant change will be to reduce the number of committee members, which is currently 15, to a number that is more workable, says Galvin.

As Canice Walsh says, “At that time [when the society was founded], there would have been only about 15 solicitors in Kerry, so they all would have been on the committee.” Now, the plan is to have six or seven members, each of whom will have specified individual responsibilities.

That, though, will have to be passed by the AGM. Controversial as it may be, at least they can be fairly confident they won’t have to cross a picket. 

PREVIOUS CPD TOPICS ORGANISED BY THE KLS

- Recent difficulties in stamping deeds
- Developments in CAT – problems and pitfalls
- Inheritance tax – implications for business
- Financial products for business
- Asylum rights
- Overview of the present litigation system – an analysis of PIAB.



Got an issue you would like addressed by our panel of practice doctors? Email: practicedoctor@lawsociety.ie

Sharing the PAIN



John Kenny: "It is axiomatic that two households cannot live as cheaply as one"

Q *My wife and I have agreed to separate and my solicitor has advised me that collaborative family law would be appropriate in our case. How does this work? How can a financial specialist assist us?*

A Collaborative law is an alternative method of resolving family disputes. It aims to find a fair and equitable agreement for the couple, based on reasoned judgement and realistic aspirations. The system requires honesty, cooperation and integrity on the part of all participants. It is geared towards the future and ongoing well-being of the family. The essence of this solution is to resolve family disputes in a non-confrontational way and avoid the use of court in family law cases.

How does it work?

Both parties retain their own trained collaborative lawyer to advise and assist in negotiating an agreement on all issues. By agreement between the parties and their lawyers, additional experts can be invited to join the team as independent advisers to the process. All of the parties involved in this system sign up to an agreement at the outset that precludes the continuing engagement of the professionals involved should the case revert to the family law courts. One of the experts that may be appointed is an independent financial specialist.

What does the financial specialist do?

The financial specialist is an experienced and trained professional who is retained to act as a neutral facilitator for discussions on the financial issues of the collaborative proceedings. Discussions with the financial specialist have the sole purpose of resolving the financial issues in dispute. Appropriate tax advice is given in the context of the separation proceedings, so that the burden of tax arising can be avoided or minimised. The contents of these discussions will not

be used against either party in the future and are without prejudice to the parties. All information will be fully disclosed to the parties and their lawyers within the collaborative process. The financial specialist will not work with either party following resolution of the collaborative process.

What financial issues can be identified?

It is axiomatic that two households cannot live as cheaply as one. The financial specialist helps to precisely identify the family assets, such as home, bank accounts and investments, and liabilities such as mortgages, bank loans and taxation. Pension rights also need to be dealt with appropriately, making proper provision for the children of the marriage and both spouses.

Having identified the family 'balance sheet', the financial specialist goes on to identify family incomes and all outgoings, both now and into the future, so that proper provision can be made for all parties. When these matters are fully clarified in agreement with both parties, the financial specialist assists them in arriving at an equitable solution regarding the division of assets and the ongoing maintenance issues that arise for both spouses and the children of the marriage. Complex and potentially divisive issues such as the valuation of properties and shares are arranged through the financial specialist and reviewed by him or her to ensure that they are balanced in respect of both parties.

Where can I do this?

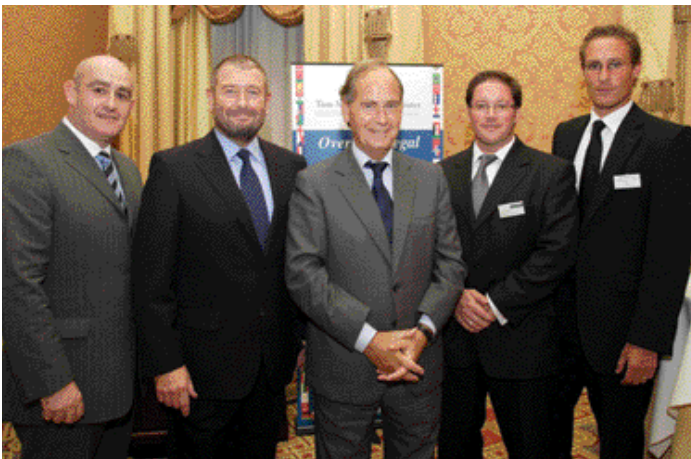
Look up the website of the Association of Collaborative Practitioners (www.acp.ie) to find a trained solicitor near you. You can also visit www.providenceforensic.com to find out more about financial specialists. ©

John Kenny is director of Providence Forensic Accounting Experts Ltd.



Putting a Cork in it

President of the Law Society Philip Joyce and director general Ken Murphy met with members of the West Cork Bar Association (WCBA) in Clonakilty on 25 September (*front, l to r*): Shane McCarthy, Ann Lynch, Eileen Hayes, Colette McCarthy (secretary, WCBA), Ken Murphy (director general), Philip Joyce (president of the Law Society), Lucy O'Sullivan, Richard Barrett (president, WCBA), Anne O'Neill (social secretary, WCBA) and Helen Collins. (*2nd row, l to r*): Niall McCarthy, Siuin Hurley, Maeve O'Driscoll, Margaret Van der Zaan, Michelle Corcoran, Mairead Casey and Diarmuid O'Shea. (*3rd row, l to r*): PJ O'Driscoll, Ray Hennessy, Joan O'Donovan, Veronica Neville (treasurer, WCBA), Maria O'Sullivan, Brian McGill, Tony Greenway, Laura McInerney, Ellen O'Mahony and Anthony Coomey (PRO, WCBA). (*4th row: l to r*): Tomas Nyhan, Virgil Horgan, Frank Purcell, John McCarthy, Flor McCarthy, Jack Purcell and Plunkett Taaffe. (*5th row: l to r*): Eamonn Fleming (vice-president, WCBA), John Flynn, Clionadh Mulcahy, Letty Baker, Barbara Daly, David Reilly and Maria O'Donovan. (*Back row: l to r*): Celine Barrett, Mary O'Leary and Pat O'Riordan



Strategic alliance

Tom McGrath & Associates, Solicitors, have announced a strategic alliance with Ardtalla Consulting. The alliance will provide high net-worth Irish property investors with financial and wealth management advice. Tom McGrath & Associates specialise in overseas property transactions for Irish and British purchasers and investors. Ardtalla Consulting is a Northern Ireland-based independent financial advisor, with offices in Spain, Portugal, France, the Canary Islands and Gibraltar. At the Shelbourne hotel event were (*l to r*): Jeremy Barnet (Ardtalla Consulting), Tom McGrath (Tom McGrath & Associates), Brian Hill (Ardtalla Consulting), HE Jose de Carvajal (Spanish ambassador to Ireland) and David O'Donnell (Tom McGrath & Associates). Earlier this year, the Ireland Spain Economic Association (ISEA) awarded Tom McGrath & Associates the ISEA annual award for promoting business and trade between Ireland and Spain



Clint makes everybody's day!

At the Corporate and Public Lawyers inaugural fundraising lunch in aid of Irish Guide Dogs for the Blind, held in the Radisson SAS Royal Hotel in Dublin, were (*l to r*): Neal McDonald, Nathan Jones, Bruno Hereots and Mark Varian with Clint the guide dog. Over 200 people from the legal, banking, building, insurance and financial services sectors were present, including special guest speakers Terence O'Keeffe (president of the CPLA) and Dr John Hilary (president of the Medical Council)



PIC: MACINNIS PHOTOGRAPHY

North and South

At a special meeting to mark the visit of President of the Law Society of Northern Ireland James Cooper to the Law Society of Ireland headquarters at Blackhall Place – and to celebrate the presentation of parchments to James Cooper and his wife Margaret – were (*front, l to r*): Rosario Boyle SC, James Cooper (president of the Law Society of Northern Ireland), Minister for Education Mary Hanafin, Philip Joyce (president of the Law Society of Ireland), Elma Lynch (past president), Margaret Cooper (solicitor) and Michele O’Boyle (Council member). (*Back, l to r*): Owen Binchy (past president), Rory McShane (past president, Northern Ireland), director general Ken Murphy, Tom Murrin (Council member), Mr Justice Brian McGovern, John Pinkerton (past president, Northern Ireland) and John Costello (junior vice-president)



PIC: LENS MEN

High-powered women

The Law Society hosted a dinner for some special guests recently (*back, l to r*): Nora Delahanty (county registrar, Co Tipperary), Ms Justice Mary Laffoy, Maura Derivan (Council member), Deirdre Murphy SC, Noeline Blackwell (FLAC), Elma Lynch (past-president of the Law Society) and Ms Justice Elizabeth Dunne. (*Front, l to r*): Carol O’Kennedy SC, Rosario Boyle SC, President of the Law Society Philip Joyce, Elizabeth Lacey (solicitor) and Noeleen Redmond (solicitor)



Banking on books

At the launch of the Arthur Cox *Banking Law Handbook* were (*l to r*): Attorney General Paul Gallagher SC and the book’s authors, Orla O’Connor, William Johnston and Charlotte Henry

Meet at the Four Courts



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LAW SOCIETY ROOMS
at the Four Courts

Committees' end-of-year dinner

The Society held its committees' end-of-year dinner in the Presidents' Hall at Blackhall Place on 4 October. Here, we present a kaleidoscope of the many committee members and committee secretaries who attended

FACES IN THE CROWD



FILING MORTGAGE DOCUMENTS

The receipt of the majority of postal statutory filings and the registration of annual returns with the Companies Registration Office (CRO) is now being carried out in our new Carlow Office.

Mortgage documents, including the satisfaction of charge, however, should continue to be sent to: **Parnell House, 14 Parnell Square, Dublin 1.**

Envelopes should be clearly marked on the outside for the attention of the section.

The CRO's Public Enquiries and Lodgements Office remains in Parnell House with opening hours of 9.30am to 4.30pm, Monday to Friday.

Your co-operation with these arrangements would be greatly appreciated.

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BCM Hanby Wallace lifts Overend Cup

BCM Hanby Wallace were crowned champions of this year's Summer Soccer League when they defeated Arthur Cox in a tightly-fought final at Blackhall Place on 27 August, *writes Stephen Walsh*. The competition, run every summer for solicitors in the Dublin area, sees many of the larger firms entering their own teams, while solicitors from smaller firms join forces to enter combined teams. A selection from the Courts Services and the Legal Aid Board also take part.

Both BCM and Arthur Cox were worthy finalists this year, having come through the group stages and tough semi-finals against Lavelle Coleman and Dillon Eustace respectively.

On the night, both sides brought a sizeable contingent of excited spectators to add to the occasion. All agreed that it was a hard-fought, yet sporting encounter.

After an entertaining but scoreless first half, the prospect that this year's competition would be decided on penalties



They are the champions

seemed a distinct possibility. Both teams upped the tempo for the second period, however, and produced an intriguing display of end-to-end soccer. Crucially, midway through the second half, a deft header from prolific BCM striker Gerry Byrne broke the deadlock. To their credit, Arthur Cox pushed hard for an equaliser and came close to snatching one in the dying minutes. The final whistle of solicitors' league referee Fran McLaughlin, however, signalled the end to

their campaign – much to the delight of the BCM players and supporters.

Afterwards, the Overend Cup was presented to BCM's victorious captain, Brian Horkan, by last year's cup-winning captain Tomás Keane of the Legal Aid Board. Congratulations to all at BCM for their deserved victory, and commiserations to Arthur Cox, who graciously stomach their second successive final defeat.

It should also be noted that

the league once again served as an important fundraiser for the St Vincent de Paul. The competition will be back next summer with more of the same skill and passion but hopefully with a little less rain!

Thanks to all who participated this year and to league organisers Tony O'Sullivan, Billy Jolley, Tony Morgan, Noel Devins and Conor Tierney. Our gratitude also to Fran McLaughlin and the staff who maintain the facilities at Blackhall Place.

ON THE MOVE



New partners at MH+C

Mason Hayes & Curran has announced three new partners in its corporate, real estate, and employment law and benefits practices. Ronnie Neville is a partner practising in employment law, Gerard Ryan is a partner in the corporate department, while John Minihane is a partner in the real estate department. They are seen here with managing partner of Mason Hayes & Curran, Declan Moylan (front)



Sonja Price

Sonja Price has been appointed solicitor of the Ireland board of the property and environmental group, Treasury Holdings. Sonja joined the legal team at Treasury Holdings in 2006 and advises on the company's property portfolio



Walter Beatty

Walter Beatty, managing partner of the Dublin commercial law firm, Vincent and Beatty, has been appointed non-executive director of the board of Hibernian Group, effective from 10 October 2007

Practice and
Procedure in
the Superior
Courts

Practice and Procedure in the Superior Courts

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Practice and Procedure in the Superior Courts

Second Edition. By Benedict Ó'Flainn

'Benedict Ó'Flainn's most praiseworthy book...is the first of its kind in post-independence Ireland'
Mildred McDowell S.C. Commercial Law Practitioner,
April 1997, Review of First Edition

'An invaluable and timely publication'
Ieron Wood, The Law Society Gazette, March 1997,
Review of First Edition

'Benedict Ó'Flainn has quite clearly undertaken an Herculean task in researching this project and bringing it to fruition in the form in which it now appears. He has done a great service to the practice of law in Ireland and has single-handedly brought to an end the difficulties and frustrations of practitioners in their attempts to find up-to-date information concerning the practice of the Superior Courts'
Mr Justice Peter Hedley, High Court of Ireland,
Foreword to the First Edition

The Second Edition of Practice and Procedure in the Superior Courts will be available from November 2007. Featuring a fully consolidated and updated text of the rules of court, this eagerly-awaited new edition incorporates over sixty amending statutory instruments promulgated since 1997 in its now familiar format - including new rules relating to discovery, service outside the jurisdiction, personal injuries actions, the commercial list and proceeds of crime legislation.

The text of each rule is accompanied by a fully updated commentary referring to reported and unreported decisions of the courts North and South, practice directions and legislative references. This work remains the standard work of reference for everyone having recourse to the High and Supreme Courts of Ireland.

ISBN: 978 1 84766 05 69 Format: Hardback Price: €225.00 Publication Date: Nov 07



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EU Food Law: Protecting Consumers and Health in a Common Market

Caoimhin MacMaoláin. Hart Publishing (2007), 16C Worcester Place, OX1 2JW, England. ISBN: 978-1-84113-498-7. Price: stg£35 (paperback).

Mr MacMaoláin makes it clear from the introduction of his excellent analysis of EU food law that his stance is a highly critical one: “free movement of food obligations leave the consumer exposed to deception, the producer to unfair trading practices, and human health to the detrimental consequences of an uncoordinated food law structure”.

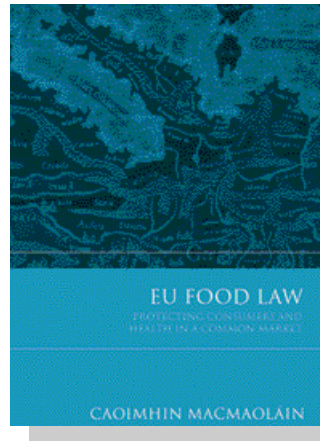
One of the main themes of his argument is what he diagnoses as the ‘negligent focus’ of EU food law on the wrong issues: as a result of the priority given to freedom of movement concerns, member states are prevented from taking effective domestic measures to ensure adequate protection for consumers. The European Court of Justice’s interpretation of article 28 of the *EU Treaty* has resulted in most such measures being viewed as measures of equivalent effect to quantitative restrictions on imports, and so struck down. Finding that such measures are disproportionate, even when they are necessary to protect public health or consumers, the ECJ has repeatedly fallen back on the panacea of food labelling, a course that the author sees as having resulted in an absurdly ineffective labelling regime: too

complicated to be intelligible to the average consumer and yet open to abuse by unscrupulous producers.

The author also sees EU food law as having focused excessively on food safety – prompted by scares such as BSE, avian influenza, salmonella in eggs, the use of hormones in meat production and e-coli – to the detriment of the issues of food quality and nutritional value. This is despite the fact that these issues have a far greater impact on the health of the population of the EU: poor diet and the resulting obesity epidemic kills far more people than any of the other headline-grabbing scares that have resulted in the EU’s crisis-driven over-emphasis on food safety.

The author argues that, in the face of over-reliance on ‘horizontal’ measures – that is, measures that apply to all foods, such as labelling requirements or the regulation of additives – the solution to the lack of food quality and nutritional standards lies in complementing these horizontal measures with ‘vertical’, that is, product-specific measures, such as minimal nutritional requirements for common foodstuffs.

Over the course of its 277 pages, the book deals with all of



the major issues in the regulation of the food sector by the EU, in particular as it affects consumers; the historical development of food law in the EU; the issue of free movement, including a detailed discussion of the case law; food standards, dealing with consumer protection, fair trading, labelling and food names; the international dimension of EU food law, including its relationship with the WTO framework and the *Codex Alimentarius*; food safety; and nutrition policy, concluding with a discussion of genetically modified organisms (GMOs), organic food and ethical food production.

Mr MacMaoláin is particularly strong on providing the historical context to each of the issues, giving an insight into the

politics, deals, compromises, and false starts behind the legislation in force today. His familiarity with his material is without fault, and his argument weaves deftly through a considerable volume of legislation without losing focus, yet generally providing ample detail on the subject matter of each chapter.

On occasion, in his eagerness to excoriate the reasoning of certain ECJ rulings, the author omits to give some of the factual context that might make the detail of the court’s argument easier to follow. These minor omissions, however, do not affect the cogency of his argument. The author’s critical engagement with his subject, and his emphasis on the pressing issues of public health it raises, help him sustain the reader’s interest throughout – something that a more straightforward exposition or reference book might not have achieved so well.

While not all readers will agree with the author’s views, his book is a thorough and thought-provoking dissection of EU food law and its faults, which certainly deserves a space on the shelf of any lawyer who advises food sector clients. **G**

Brian Harley is a trainee solicitor with Mason Hayes & Curran.

The Commercial Court

Stephen Dowling. Thomson Round Hall (2007), 43 Fitzwilliam Place, Dublin 2. ISBN: 978-1-85800-452-5. Price: €225.

In contrast to the Ritz Hotel, the Commercial Court (or, strictly speaking, the Commercial List) is not open to all. It is mainly confined to

commercial cases with €1 million or more at stake. The court dispenses justice speedily and to a very high standard. The court is

intolerant of delay, inadequate preparation and prolixity. As Mr Dowling’s book demonstrates, a key to the court’s success is its use of judicial case management

to compel the parties to identify the issues in dispute and relevant evidence as early as possible. This puts pressure on practitioners and clients, and



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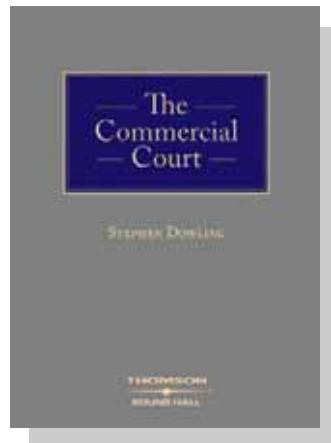
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intensive lawyering to tight deadlines means that clients have to pay substantial bills over a short period. However, solicitors can now confidently tell clients, from home or abroad, when and in what manner their litigation in the court is likely to proceed to conclusion. Clients value this predictability.

Some practitioners have complained that setting up a commercial court is preferential treatment for business, as litigants in many of the state's other courts, including the Supreme Court, face substantial delays. This is an understandable but misdirected criticism because, in addition to providing an important service to those who do business in this



country, the court has relieved other parts of the High Court from hearing many heavy commercial disputes, the equivalents of which clogged up courts for months on end in the 1980s and 1990s.

Also, lessons can be learned

from the Commercial Court's practices and procedures, which can be adapted to other courts. Full-blown judicial case management would not be justifiable in many smaller-value cases, as intensive case management has costs implications. But firmer enforcement of deadlines, more informative pleadings and earlier exchange of evidence would help speed up litigation throughout the system.

Mr Dowling's book explains every aspect of the Commercial Court's practices and procedures, but does more than that. It sets out the law, and includes valuable references from other common law countries on every conceivable topic relevant to commercial

litigation in Ireland, such as discovery, evidence and costs. It gives much prominence to alternative dispute resolution. One of the distinctive features of the court is that it has strongly encouraged mediation in many cases, and Mr Dowling gives a concise insight (in two pages) to the mechanics of mediation. He also highlights the court's role in the judicial review of complex public law matters with commercial implications.

Mr Dowling's book deservedly receives high praise in the foreword to the book, written by the presiding judge in the Commercial Court. **G**

Roderick Bourke is a litigation partner in McCann FitzGerald, Dublin.

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The Law Society's partners in this initiative are GlobalAirNet International Ltd.

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This notice is for the particular attention of sole principals

PROFESSIONAL INDEMNITY INSURANCE – ARRANGEMENTS FOR CEASING PRACTISE ON OWN BEHALF: RUN-OFF COVER

This practice note repeats and confirms information already circulated to the managing partner or principal of each solicitor's firm.

This practice note should be read in conjunction with the practice note published in the August/September 2007 issue of the *Gazette* (p57) regarding the new regulations governing the minimum terms and conditions of professional indemnity insurance for solicitors (SI 617 of 2007), which came into operation on 1 November 2007.

This practice note explains the professional indemnity insurance arrangements that apply to sole principals who cease practise on their own behalf, whether during the current transitional period when the old regulations remain in force in relation to run-off cover, or in the future when only the new regulations will be in force.

In this practice note, the expression 'sole principal' is used to describe both solicitors practising on their own and sole principals who employ one or more solicitors, and the expression 'firm' includes all sole principals.

'Run-off cover' is cover that includes the minimum terms and conditions for a firm that has ceased to carry on practise where there is no succeeding practice.

Why run-off cover is important

Professional indemnity insurance cover for solicitors is pro-

vided on a 'claims made basis' rather than an 'occurrence basis'. This means that, if a claim is made, the relevant cover is that which is in place when a solicitor first becomes aware of a potential claim, and not the cover in place when the legal services in respect of which the claim arises were provided. Accordingly, it is necessary for a solicitor to have cover in place should claims be notified after the solicitor has ceased practise on his or her own behalf. This is in order to protect the solicitor, the solicitor's estate and the solicitor's former clients in the event of a claim arising.

The old regulations

The effect of the old professional indemnity insurance regulations (SI 312 of 1995, as amended) is that run-off cover must be obtained for a period of two years by all sole principals who cease private practise on their own behalf, for whatever reason, if their practice is not taken over by, or amalgamated with, another practice or, even if their practice is taken over, the practice taking over does not take over past liabilities in relation to any claims that might arise.

What happens now?

With regard to those sole principals ceasing practise on their own behalf prior to the end of the current practice year 2007, **who are required by the old professional indem-**

nity insurance regulations to obtain run-off cover, the following is the position.

1 November renewal date

A sole principal whose professional indemnity insurance cover was due for renewal on 1 November 2007, and who ceased practise on his or her own behalf on or before 31 October 2007, should have obtained run-off cover from a qualified insurer for at least a one-year period and, in due course, must obtain run-off cover for a further one-year period thereafter in order to comply with the old regulations. If a sole principal whose cover was due for renewal on 1 November 2007 ceases practise on his or her own behalf on or after 1 November 2007, such a solicitor should have renewed cover under the new professional indemnity insurance regulations. Therefore, where there is no succeeding practice, run-off cover for a six-year period will be included in the terms for renewal of their cover, at the premium for run-off cover calculated and payable (when run-off cover is triggered) in accordance with the provisions of the policy.

1 January renewal date

A sole principal whose professional indemnity insurance cover is due for renewal on 1 January 2008, and who ceases practise on his or her own behalf on or before 31

December 2007, must obtain run-off cover from a qualified insurer for two years in total in order to comply with the old regulations. If a sole principal whose cover is due for renewal on 1 January 2008 ceases practise on his or her own behalf on or after 1 January 2008, such a solicitor should have renewed cover under the new professional indemnity insurance regulations. Therefore, where there is no succeeding practice, run-off cover for a six-year period will be included in the terms for renewal of their cover, at the premium for run-off cover calculated and payable (when run-off cover is triggered) in accordance with the provisions of the policy.

Run-off cover premiums under the new regulations

Under the new professional indemnity insurance regulations, premium terms for run-off cover will be set out in quotations and renewal notices for professional indemnity insurance cover each year. All quotations and renewal notices are required to contain a notice to advise firms that, by accepting a quotation and taking out a policy, the insurer becomes obliged, should the practice cease during the policy year without a successor practice, to provide run-off cover for a six-year period at the premium rates calculated in accordance with the provisions of the policy and, conse-

quently, firms should ensure that the run-off premium terms are satisfactory before entering into a policy. Sole principals are strongly recommended to consider and plan for the cost of run-off cover should it be required. All sole principals intending to cease practise on their own behalf should pay particular attention to the information relating to premium terms for run-off

cover contained in quotations or renewal notices.

Recommendation to obtain six-year run-off cover

The Law Society recommends that solicitors who are required to obtain run-off cover for only a two-year period should seek run-off cover for a six-year period rather than a two-year period, as claims can arise after a two-year period,

which could leave them and their former clients with an exposure, as there would be no cover in place to cover any such claims.

Further information

Please refer to the Law Society's website, www.lawsociety.ie, under 'Society committees', 'Professional indemnity insurance', for the full text of the new professional indem-

nity insurance regulations.

Any queries relating to the professional indemnity insurance regulations should be addressed to the Law Society executive responsible for professional indemnity insurance, Rosemary Fallon, at 01 672 4856 or r.fallon@lawsociety.ie.

John Elliot, Registrar of Solicitors and Director of Regulation

CRIMINAL LEGAL AID SCHEME

CRIMINAL JUSTICE (LEGAL AID) (TAX CLEARANCE CERTIFICATE) REGULATIONS 1999

NOTICE TO PRACTITIONERS

Retention of name on Criminal Legal Aid Panel for the panel year commencing 1 December 2007: The Department of Justice, Equality and Law Reform has advised that a solicitor who wishes to have his/her name retained on the Legal Aid Panel(s) beyond 30 November 2007 must submit to the relevant county registrar(s) a tax clearance certificate (TCC) with an expiry date later than 30

November 2007.

A solicitor whose TCC has an expiry date on or before 30 November 2007, and wishes to have their name retained on the Criminal Legal Aid Panel(s) for the panel year beginning on 1 December 2007, must apply to the Revenue Commissioners for a new TCC.

Applying for a TCC in writing:


Local Revenue Districts now deal with the processing of written

applications for TCCs. The contact names, addresses and telephone numbers of the relevant Revenue Districts are available on the Revenue's website, www.revenue.ie. You should contact your local Revenue District office for an application form (TC1).

Applying for a TCC through Revenue's online application facility: Arrangements have been introduced to allow taxpayers to apply online for a tax clearance

certificate. The facility is to be found at Revenue's website address: www.revenue.ie.

On receipt of your certificate, it should be forwarded to the relevant county registrar(s).

NB – No fees under the *Criminal Justice (Legal Aid) Regulations* shall be payable to a solicitor who accepts an assignment to a case if his/her name is not, at the time of assignment, on the relevant solicitors' panel. 

VAT ON SOLICITORS' FEES

The Law Society has met with the National Consumer Agency (NCA) and has agreed to publish a notice in the *Gazette* advising solicitors that, under the *Prices and Charges (Tax Inclusive Statements) Order 1973* (SI 9 of 1973), charges that are advertised or communicated verbally must be stated as a single amount, inclusive of any charge for VAT.

The NCA has pointed out that advertising a fee plus VAT is not sufficient to comply with the statutory instrument – the VAT inclusive price must be clearly stated.

Despite publicising this requirement in the *Gazette*, the NCA is aware that certain solicitors' firms continue to advertise their fees exclusive of VAT. The NCA has asked the Society to assist it in ensuring that the statu-

tory instrument is observed in all cases, and the Society has agreed to take whatever steps are appropriate in this regard.

The relevant text of the statutory instrument is as follows:

"Where, for the purposes of or in connection with the rendering of a service by a person, the charge for the service is stated orally by the person or by a servant or agent of the person or is stated in

any catalogue or advertisement or in a notice or other document (other than an invoice), the charge so stated shall be stated as a single amount inclusive of any charge made by the person for any tax payable in respect of the service."

Solicitors who advertise fixed fees for any legal service are asked to ensure that their advertising complies with the law as set out above.

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legislation update



18 September – 17 October 2007

Details of all bills, acts and statutory instruments since 1997 are on the library catalogue – www.lawsociety.ie (members' and students' area) – with updated information on the current stage a bill has reached and the commencement date(s) of each act.

SELECTED STATUTORY INSTRUMENTS

Companies (Auditing and Accounting) Act 2003 (Procedures Governing the Conduct of Section 23 Enquiries) Regulations 2007
Number: SI 667/2007
Contents note: Set out the procedures governing the conduct of enquiries by the Irish Auditing and Accounting Supervisory Authority under section 23 of the *Companies (Auditing and Accounting) Act 2003*.
Commencement date: 28/9/2007

Data Protection Act 1988 (Section 16(1)) Regulations 2007

Number: SI 656/2007
Contents note: Exempt a number of specific categories of data controller from the requirement to register with the Data Protection Commissioner under section 16 of the *Data Protection Act 1988*, as amended by section 16 of the *Data Protection (Amendment) Act 2003*, (including educational establishments and solicitors and barristers who process personal data for legal professional purposes) and set out the categories of data controller who are not exempt and who are required to register.

Commencement date: 1/10/2007

Data Protection (Amendment) Act 2003 (Commencement) Order 2007

Number: SI 657/2007
Contents note: Appoints 1/10/2007 as the commencement date for section 16 and section 22, insofar as it is not already in operation, of the *Data Protection (Amendment) Act 2003*.

Data Protection (Fees) Regulations 2007

Number: SI 658/2007
Contents note: Prescribe revised fees payable by persons applying to be registered or to have their registrations continued under the *Data Protection Act 1988*.

Commencement date: 1/10/2007

Data Protection (Processing of Genetic Data) Regulations 2007

Number: SI 687/2007
Contents note: Prescribes the processing of genetic data in relation to the employment of a person for the purposes of section 12A (inserted by section 13 of the *Data Protection (Amendment) Act 2003*) of the *Data Protection Act 1988*. Section 12A applies to any processing that is of a prescribed description, being processing that appears to the Data Protection Commissioner to be particularly likely to cause substantial damage or substantial distress to the data subjects or otherwise significantly prejudices the rights and freedoms of data subjects.

Commencement date: 8/10/2007

European Communities (Control of Bluetongue) Regulations 2007

Number: SI 676/2007

Contents note: Give effect to council directive 2000/75 and commission decision 2005/393 (as amended) relating to an outbreak or suspected outbreak of bluetongue disease. Revoke the *European Communities (Control of Infectious Animal Diseases) (Amendment) Regulations 2002* (SI 125/2002).

Commencement date: 26/9/2007

European Communities (Markets in Financial Instruments) (Amendment) Regulations 2007

Number: SI 663/2007
Contents note: Give effect to directive 2004/39 on markets in financial instruments, as amended by directive 2006/31 as regards certain deadlines, and to directive 2006/73 as regards organisational requirements and operating conditions for investment firms and defined terms for directive 2004/39. Amend the *European Communities (Markets in Financial Instruments) Regulations 2007* (SI 60/2007).

Commencement date: 1/11/2007

European Communities (Provision of Services Concerning Trade Marks and Industrial Designs) Regulations 2007

Number: SI 622/2007
Contents note: Amend certain provisions of the *Trade Marks Act 1996* and the *Industrial Designs Act 2001* in order to allow a person established in another EU member state, and qualified under the law of that state to act as a trademark agent, to act for another person in relation to trademark mat-

ters before the Controller of Patents, Designs and Trade Marks.

Commencement date: 5/9/2007

Finance Act 2007 (Commencement of Section 109) Order 2007

Number: SI 649/2007
Contents note: Appoints 1/10/2007 as the commencement date for section 109 of the act, subject to certain qualifications. Section 109 amends part 6 ('Special provisions relating to uncertificated securities') of the *Stamp Duties Consolidation Act 1999*.

Hepatitis C Compensation Tribunal (Amendment) Act 2006 (Establishment Day) Order 2007

Number: SI 634/2007
Contents note: Appoints 12/9/2007 as the establishment day for the insurance scheme under the *Hepatitis C Compensation Tribunal Act 1997*, as amended by the *Hepatitis C Compensation Tribunal (Amendment) Act 2006*.

Hepatitis C Compensation Tribunal (Amendment) Act 2006 (Sections 1(a), 3, 4 and 5) (Commencement) Order 2007

Number: SI 635/2007
Contents note: Appoints 12/9/2007 as the commencement date for sections 1(a), 3, 4 and 5 of the act. This provides for the commencement of the insurance scheme for people diagnosed positive for hepatitis C or HIV through the administration within the state of infected blood or blood products.

Housing (Adaptation Grants for Older People and People with a Disability) Regulations 2007**Number:** SI 670/2007

Contents note: Provide for the schemes of grants for the adaptation of houses for people with a disability and older people and the carrying out of necessary repairs and improvements to the houses of older people. Revoke the *Housing (Disabled Persons and Essential Repairs (Grants) Regulations 2001* (SI 607/2001) with effect from 1/11/2007, though the 2001 regulations will continue to apply to applications received by a housing authority before 1/11/2007.

Commencement date: 1/11/2007**Industrial Designs (Amendment) Regulations 2007****Number:** SI 620/2007

Contents note: Amend regulation 8(1) of the *Industrial Design Regulations 2002* (SI 280/2002)

to provide that a person involved in any proceeding before the Controller of Patents, Designs and Trade Marks and every registered proprietor of a design may have an address for service in the EU as opposed to in the state.

Commencement date: 5/9/2007**Prisons Act 2007 (Commencement) (No 3) Order 2007****Number:** SI 650/2007

Contents note: Appoints 1/10/2007 as the commencement date for section 38 ('Payment by prisoners for requested services') of the *Prisons Act 2007*.

Social Welfare and Pensions Act 2007 (Section 37) (Commencement) (No 2) Order 2007**Number:** SI 632/2007

Contents note: Appoints 17/9/2007 as the commencement date for section 37 of, and

part 2 of schedule 2 to, the *Social Welfare and Pensions Act 2007*, insofar as these provisions amend section 3A (as inserted by section 39 of the *Social Welfare Law Reform and Pensions Act 2006*) of the *Pensions Act 1990* to specify the sections of the *Pensions Act 1990* a contravention of which will warrant the application of a fine.

Social Welfare Law Reform and Pensions Act 2006 (Section 39) (Commencement) Order 2007**Number:** SI 631/2007

Contents note: Appoints 17/9/2007 as the commencement date for section 39 (insofar as it inserts section 3A ('Notice by board of intention to prosecute') into the *Pensions Act 1990*) of the *Social Welfare Law Reform and Pensions Act 2006*. The new section 3A of the *Pensions Act 1990* provides for the payment of fines as an alternative to the prosecution of certain offences under the act.

Trade Marks (Amendment) Rules 2007**Number:** SI 621/2007

Contents note: Amend the *Trade Marks Rules 1996* (SI 199/1996) to provide for the evidential requirements with which a person established in another EU member state and qualified to act under the law of that state as a trademark agent must comply in order to act for another person in relation to trademark matters before the Controller of Patents, Designs and Trade Marks. The rules also prescribe the minimum educational qualifications a person must have in order to apply for registration in the register of trademark agents in Ireland. The rules also clarify certain functions to be carried out by the Trade Mark Agents Board.

Commencement date: 5/9/2007 **G**

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CONSTITUTIONAL LAW

Mental Health

Liberty – application for release from mental hospital – admission order – renewal order – notification of making of renewal order – whether applicant detained in accordance with law – Mental Health Act 2001 – Bunreacht na hÉireann, *article 40*.

The applicant was detained as an involuntary psychiatric patient in the respondent's hospital on foot of an admission order made under s14 of the *Mental Health Act 2001*. A date was fixed for a review of that admission order by a mental health tribunal some 19 days after the making of the order. A renewal order of the initial admission order was made, pursuant to section 15(2) of the 2001 act, five days before the review of the admission order. The tribunal affirmed the initial admission order and the applicant continued to be detained under the renewal order. The applicant applied for an enquiry, under article 40 of *Bunreacht na hÉireann*, into the legality of his detention on foot of the renewal order prior to its review by a mental health tribunal. He contended that the renewal order could not have been validly made prior to the review of the initial admission order, as an interpretation of section 15 that permitted a renewal of the admission order to take place prior to the review of same would be absurd as, in a situation where the admission order were to be revoked upon review, the renewal order would still be operative.

Mr Justice Peart refused the applicant the relief sought, holding that:

- 1) An admission order under s14 of the *Mental Health Act 2001* lasted for a period of 21 days unless revoked following a review that happened to take place before the expiration of that 21-day period,
- 2) A renewal order took effect only on the expiration of the 21-day period of the initial admission order that it was renewing, unless that initial order was revoked and not before,
- 3) If an initial admission order was revoked upon review, an order for renewal that had been made prior to such revocation would also be deemed to be revoked and would not entitle a hospital to detain a patient.

D(M) (applicant) v Clinical Doctor of St Brendan's Hospital (respondent), High Court, Mr Justice Peart, 24/5/2007, 2007 No 663 SS [FL14305]

Personal rights

Inviolability of dwelling – whether arresting garda had implied authority to open car door on curtilage of dwelling for purpose of investigating whether offence occurred – Road Traffic Act 1994, *section 39(2)* – Bunreacht na hÉireann.

Section 39(2) of the *Road Traffic Act 1994* provides, among other things, that “a garda may, for the purpose of arresting a person ... enter without warrant any place (including the curtilage of a dwelling...) where the person is”. The defendant had been charged with driving under the influence of alcohol after having been arrested by a garda

who had followed her driving home and opened the door of her car on her driveway. The prosecutor submitted that the arresting garda had an implied authority to enter onto the driveway otherwise than for the purpose of arresting the defendant. The defendant submitted that the arresting garda had no such implied authority and was in breach of the defendant's legal and constitutional rights. The District Court judge found that the only inference that could be drawn was that the garda initially entered onto the driveway for the purpose of investigating the possibility that an arrestable offence had occurred. The defence at the close of the prosecution case submitted that there was no case to answer. The District Court, in dealing with that submission, sought the opinion of the High Court on, among other things, the following question: “was the arresting garda's action in opening the defendant's car door, without making any attempt to communicate with any person in the car prior to doing so, in breach of any constitutional right of the defendant, including her right to protection of her dwelling, private property, privacy, personal liberty and freedom of expression, either because it was not in accordance with law or otherwise?”

Mr Justice Herbert answered in the negative, holding that:

- 1) It was not reasonably open to a trier of fact to conclude that the defendant had said or done anything that could amount to a clear and

intentional withdrawal of the implied authority of the arresting garda to come onto her driveway,

- 2) If the garda had an implied authority to come onto the driveway of a private dwelling to see to the enforcement of the law, that authority had also to entitle them to do whatever was additionally necessary on that driveway for that purpose, provided they did not act arbitrarily in so doing,
- 3) The opening of the car door was with the sole object of enforcing the law and was within the scope of the implied authority,
- 4) An unexpressed authority, implied by law, to open an unlocked car door for the purpose of communicating with the person believed to be in charge of the vehicle had to be narrowly construed and strictly limited to the defined purpose for which it was implied.

Director of Public Prosecutions (prosecutor) v O'Sullivan (defendant), High Court, Mr Justice Herbert, 31/7/2007, 2007 No 128 SS [FL14268]

CONTRACT LAW

Damages

Specific performance – estoppel – sub-lease – planning permission – agreement – service station development – valuation – compromise of proceedings – conditions – whether defendant in breach of agreement.

The plaintiff sought to develop a service station and claimed that the decision of the defendant to carry out

roadworks adjacent to the property would be in breach of covenant and sought to restrain the proposed works. A compromise was agreed to as between the parties, subject to conditions. The plaintiff alleged that the defendant was in breach of the agreement.

Laffoy J held that the defendant was not willing to complete the agreement and was in breach of contract. The plaintiff was entitled to specific performance thereof and damages resulting from the breach.

Cummins & Hayden (plaintiffs) v South Dublin County Council (defendant), High Court, Ms Justice Laffoy, 18/7/2007, 2002/15800 P [FL14334]

CRIMINAL LAW

Delay

Practice and procedure – judicial review – suspension – delay in prosecution for larceny – whether there was unacceptable delay.

The applicant was employed as a bookkeeper by a credit union. The applicant was suspended on the basis of suspected fraud. Two-and-a-half years later, the applicant was arrested and questioned. Two years and ten months after that, the applicant was brought to the District Court and charged with a single offence. Some months later, she was charged with 15 further offences. The applicant instituted judicial review proceedings on the grounds of delay and prejudice.

The Supreme Court held that there was unacceptable delay in this case. The appeal was allowed and an order of prohibition against the further prosecution of the applicant was ordered.

Noonan (aka Veronica Hoban) (applicant/appellant) v The Director of Public Prosecutions (respondent), Supreme Court, 27/7/2007, 405/04 [FL14307]

Practice and procedure

Mens rea element to an offence – Misuse of Drugs Act 1977 – Criminal Justice Act 1999.

The appellant was charged with an offence contrary to section 15A of the *Misuse of Drugs Act 1977*. The appellant was convicted and sentenced to ten years' imprisonment. The appellant applied to the Court of Criminal Appeal on the basis that the trial judge failed to direct the jury that it was a necessary ingredient in the offence that the accused was aware that the quantity of the controlled drug alleged to be in his possession exceeded the statutory amount. The Court of Criminal Appeal did not find it necessary to prove that the accused knew or ought reasonably to have known that such was the value.

The Supreme Court held that, in the prosecution of an offence contrary to section 15 of the *Misuse of Drugs Act 1977*, it was not necessary that the prosecution prove the accused knew or ought to have known that the market value or the aggregate of the market values of the controlled drugs amounted to €13,000 or more.

Director of Public Prosecutions (respondent) v Power (appellant), Supreme Court, 26/7/2007, 459/06 [FL14321]

Evidence

Appeal to Supreme Court – new evidence – Criminal Justice Act 1924, s29 – Criminal Procedure Act 1993, s2.

The applicant applied for a certificate pursuant to s29 of the *Criminal Justice Act 1924*. The applicant also applied for an order quashing his conviction, pursuant to s2 of the *Criminal Procedure Act 1993*, on the basis of the existence of new evidence.

The Court of Criminal Appeal refused both applications, holding that the applicant had not established that there was a point of law of

exceptional public importance. The evidence was not new within the ambit of the law.

DPP (respondent) v S(M) (applicant), Court of Criminal Appeal, 31/7/2007, 2005 No 147 CPA [FL14256]

FAMILY LAW

Divorce

Interest in family home – access – interview of child – pension – economic sacrifice – Family Law Act 1995 – Family Law (Divorce) Act 1996.

The applicant sought a divorce in family law proceedings where the applicant had contributed largely to the purchase of the family home. The respondent resided abroad and had no property and had limited income arising from a field of narrow specialisation and a career of temporary contracts. The applicant had sacrificed a career as a solicitor to raise their child. The child had had little contact with the respondent and expressed no desire to re-establish contact with her father.

Judge McMahon granted a decree of divorce, various orders, and a declaration that the respondent was entitled to 7% of the family home. The respondent's interest in the family home was to be transferred to the applicant to support their daughter. Pension adjustment orders would be made.

K(L) (applicant) v (K)(M) (respondent), Circuit Court, Judge McMahon, 13/3/2007, 87/05 [FL14250]

Practice and procedure

Case stated – summons procedure – Courts (No 3) Act 1986 – Children Act 2001 – whether the procedure under the 1986 act for the issue of summonses may be used in respect of summonses issued pursuant to the Children Act 2001.

This case arose out of a case stated by District Court Judge Catherine Murphy, pursuant to

s51(1) of the *Courts (Supplemental Provisions) Act 1962*, on a point of law for the opinion of this court. The case stated arose out of the respondent's appearance before the Children's Court in answer to two summonses issued pursuant to the *Courts (No 3) Act 1986*. Those summonses referred to the parent/guardian of the accused but failed to specify the provisions of the *Children's Act 2001* concerning non-attendance of a parent/guardian at the specified sitting of the court. Judge Murphy submitted three questions for consideration by this court: (1) whether the prosecution of a child for a criminal offence by way of summons could be commenced by the use of a summons issued pursuant to the *Courts (No 3) Act 1986*, notwithstanding the provisions of SI 539 of 2004, pursuant to s64 of the 2001 act and form 37.1 appended thereto; (2) whether the failure to specify the provision of s91 of the 2001 act in a summons naming the parents/guardian of the child amounted to a fundamental defect depriving the court of jurisdiction, or was it a defect that was capable of being remedied; and (3) whether the failure to name the parents/guardian of a child was fatal to the validity of a summons.

McCarthy J held that the answer to the first question was 'yes' and the second and third questions were answered in the negative. The failure to specify the provisions of s91 of the 2001 act was a defect that was capable of being remedied. The interest of justice would not favour a refusal to make an amendment by the insertion of an appropriate form of words to conform with the requirements under s64(2), that is to say, a form of words appropriate to deal with s91 of the 2001 act.

Director of Public Prosecutions

(prosecutor/appellant) v B(D) (defendant/respondent), High Court, Mr Justice McCarthy, 31/7/2007, 2007 No 675 SS [FL14343]

Property

Property adjustment order – judgment mortgage against the interest of the first-named defendant – whether family law proceedings affected the interest of other parties – legal priority where proceedings commenced in respect of the land prior to the judgment mortgage – Family Law Act 1995.

The plaintiff had obtained judgment against the first-named defendant in the sum of €173,994.40, plus costs to the amount of €402.60. Judgment was registered in December 2005 against the interest of the first-named defendant. The first defendant was joint owner of the fee simple interest in the lands and premises in question. The defendants were married but were now separated. Family law proceedings were instituted between the first and second-named defendants, which ordered that the respondent transfer to the applicant his entire beneficial interest in the premises. It was intended by the parties that the order would not affect the interest of the plaintiff in the instant proceedings. Issues arose in relation to priority where legal proceedings had commenced in respect of the lands prior to the judgment mortgage and whether it was entitled to rank in priority. The property adjustment order was made in favour of the second-named respondent and was made by consent in circumstances where the plaintiff was not given an opportunity to make representations on whether an order could be made.

Dunne J held that the interests of the second-named defendant ranked in priority to that of the plaintiff. The order sought was refused.

Dovebid Netherlands BV (plaintiff) v William Phelan, trading as the Phelan Partnership, and Denis O'Byrne (defendants), High Court, Ms Justice Dunne, 16/7/2007, 2006 No 380 SP [FL14280]

LAND LAW

Lease

Covenants – whether the third parties were bound by a covenant entered into by their predecessor in title to maintain and service the demised premises.

This judgment concerned a preliminary issue as to the liability of the third parties arising out of the plaintiff's appeal from a Circuit Court claim for damages for negligence, breach of contract and nuisance and an injunction requiring the defendants to carry out work as required pursuant to the schedule to a lease between the parties. By way of third-party notice, the defendants claimed an indemnity against the third parties, both of whom were unlimited private companies, and the second-named third party (notice party) was the successor of the first-named third party. Essentially, the plaintiff claimed that the defendants failed, refused and/or neglected to provide the maintenance service in respect of the premises let to the plaintiffs. The defendants argued that the third parties took the benefit and assumed the burden of the original covenantor and were therefore obliged to provide the services for at least as long as the leases subsisted.

Murphy J determined the third party issue against the defendants, holding that the deed, upon which the defendants relied in making their third-party claim, did not create any privity of contract as between the defendants and the third parties. The defendants

were successors in title to the original covenantor under that deed in respect of part of the land. The notice party was successor to the original covenantors under that deed. Furthermore, there was no privity of estate between the parties. They were not in a landlord and tenant relationship and, accordingly, none of the law governing the running of leasehold covenants was of any relevance. Consequently, neither of the third parties had any liability to the defendants or the plaintiff in respect of the covenant contained in the relevant deed or to the services listed in the fifth schedule thereto.

Cardiff Meats Ltd (plaintiff) v McGrath & McGrath & McGrath (defendants), High Court, Mr Justice Murphy, 26/6/2007, 2006/81 CA [FL14320]

PLANNING AND DEVELOPMENT

Injunction

Circumstances under which default planning permission may be granted – whether development materially contravening provisions of development plan – exercise of judicial discretion – whether injunction restraining development should be granted – Planning and Development Regulations 2001, article 33 – Planning and Development Act 2000, sections 34(8), 160.

The respondent had applied for planning permission for a development in respect of which the applicant had served a notice for information under article 33 of the *Planning and Development Regulations 2001*, to which the respondent had never replied. The applicant had made no decision on the planning application. The respondent commenced development of the site, and the Circuit Court granted an injunction pursuant to section 160 of the *Planning and Development Act 2000*

restraining the development. The respondent appealed to the High Court. The respondent contended that it had obtained default planning permission, as no decision had been made by the applicant within the statutory time limit. The applicant stated that, as the respondent had never replied to the notice for information, the application had lapsed and that, as the site had been developed in contravention of the area development plan, no default permission could, in any event, arise.

Mr Justice Charleton granted the injunctions sought, holding that:

- Once a genuine request was made for further information under article 33, which accorded with the statutory purpose of allowing the planning authority to enable it deal with the planning application, the time limit after which default permission came into operation was suspended pending receipt of the information from the developer,
- An administrative body could not abuse its position by causing time limits to be apparently suspended through the abuse of a legitimate procedure; however, a party seeking to impugn the validity of a request for further information under article 33 of the 2001 regulations bore the burden of proving that that statutory power had not been exercised in good faith for the purpose for which it had been granted,
- Under article 26(3) of the 2001 regulations, an application for planning permission should be rejected if it was incomplete on receipt but, where two parties to a decision acted by agreement on a basis that was not in strict compliance with the law, an estoppel could be set up,

- A decision to grant planning permission in respect of a development that would materially contravene the development plan could not be made by default,
- A material contravention of a development plan could be shown where the development in question was of a nature, or was on such a scale, that made it likely that the planning authority would refuse permission for development for reasons that were based predominantly on the development plan, and
- While planning permissions should be interpreted with some degree of flexibility so as to allow for the practical reality that buildings could sometimes not be built precisely as the plans indicated, the measure of tolerance allowed was in respect of immaterial deviations, and the fact that the manner in which the site was developed was a material deviation from the plans as originally submitted to the applicant was also a relevant factor to the exercise of judicial

discretion as to whether an injunction under section 160 of the 2000 act should be granted, the balancing of that discretion having to start with the duty of the court to uphold the principle of proper planning for developments.

Wicklow County Council (applicant/respondent) v Forest Fencing Ltd (respondent/appellant), High Court, Mr Justice Charleton, 13/7/2007, 2004 No 378CA [FL14335]

REFUGEE AND ASYLUM LAW

Judicial review

Deportation – extension of time – whether the decision of the second-named respondent merged into the decision of the third-named respondent, thereby precluding the applicant from seeking judicial review of that decision.

The applicant sought leave to challenge by way of judicial review the decisions of the second and third-named respondents refusing to grant her refugee status. The applicant also sought leave to challenge the decision of the first-named

respondent to deport her. The applicant was out of time by almost 12 months in relation to the decision of the second-named respondent and by 11 months in relation to the third-named respondent's decision. The applicant submitted that there were special circumstances that entitled her to challenge the decisions of the second and third-named respondents, namely, her diagnosis of depression, her history of trauma, her age, and the lapse of time between the notification of the second-named respondent's decisions and the determination of her appeal. She alleged that the third-named respondent did not rely on significant findings of the second-named respondent but, notwithstanding, affirmed the second-named respondent's recommendation to refuse the applicant a declaration of refugee status.

Dunne J refused to grant leave in relation to the decisions of the second and third-named respondents, holding that there was no basis to permit the court to interfere with the first instance decision (the second-named respondent's decisions) in

circumstances where the appeal had been determined in respect of that decision. There were no special circumstances such as would permit the court to exercise its discretion to grant leave to apply for judicial review in respect of the second-named respondent's decision. Furthermore, the applicant failed to establish the necessary grounds to be granted leave to apply for judicial review of the decision of the third-named respondent.

Obiter: There was no explanation for the delay in bringing this application and, accordingly, an extension of time could not be granted.

T(TR) (applicant) v Minister for Justice, Equality and Law Reform (respondent), High Court, Ms Justice Dunne, 4/5/2007, 2005 No 1123 JR [FL14238] G

The information contained here is taken from FirstLaw's Legal Current Awareness Service, published every day on the internet at www.firstlaw.ie. For more information, contact bartdaly@firstlaw.ie or FirstLaw, Merchant's Court, Merchant's Quay, Dublin 8, tel: 01 679 0370, fax: 01 679 0057.

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News from the EU and International Affairs Committee
 Edited by TP Kennedy, Director of Education, Law Society of Ireland

European Commission adopts *White Paper on Sport*

The European Commission published its *White Paper on Sport* on 11 July 2007. The white paper aims to enhance the visibility of sport in EU policy-making and to provide strategic orientation on the role of sport in the EU. The commission says that the paper is “not starting from scratch” and, further, that the important role of sport in European society and its specific nature was recognised in December 2000 in the European Council’s declaration on the specific characteristics of sport (the *Nice Declaration*). The declaration recognises that sporting organisations and member states have a primary responsibility in the conduct of sporting affairs.

The white paper is the fruit of extensive consultations with sports stakeholders over the past two years. However, it has met with criticism on the ground that it is indecisive regarding many of the issues currently central to the organisation and operation of sport. In a joint declaration, issued shortly after the publication of the white paper, the International Olympic Committee (IOC) and FIFA commented that “whilst the concept of a white paper was to be welcomed, the content of the final version represents – unfortunately – a missed opportunity”. Further, the IOC and FIFA had hoped that the white paper would give concrete expression to the *Nice Declaration* and fully recognise both the autonomy and speci-

ficity of sport, as well as the central role and independence of sports federations in organising, regulating and promoting their respective sports.

In this regard, the commission acknowledges the autonomy of sporting organisations and representative structures and that governance is mainly the responsibility of those bodies. However, the commission states that dialogue with sports organisations has brought a number of areas to its attention and, although most challenges can be addressed through self-regulation, the principles of EU law must be respected when the relevant governing body is exercising its regulatory function.

On a positive note, the commission appears committed to supporting better international cooperation in the fight against doping, to strengthening the prevention of and fight against racism and violence in sport, and to the development of further legislation on sports betting.

Exemption from treaty rules

The commission, while acknowledging the “specificity of sport”, states that the current initiative does not weaken the application of EU law to sport – that is, sporting rules or the activities of sports associations will not be treated as being exempt from the application of the treaty rules. Accordingly, the commission repeats its oft-cited mantra that a case-by-case

approach remains the basis for its control of the implementation of EU law (in particular the competition rules) – an approach that chimes with the recent decision of the European Court of Justice in *Meca-Medina*.

Players’ agents

There have been repeated calls to regulate the activities of players’ agents through an EU legislative initiative. Players’ agents are currently subject to differing regulations in different member states. In addition, some international federations (such as FIFA) have introduced their own regulations for players’ agents. However, the commission considers that it is necessary to carry out an impact assessment before it can evaluate whether action at EU level is necessary. Some observers may see this as a rather timid option, given that the current problems have been clearly identified and discussed for some time.

Sports media

The commission says nothing new on the relationship between the sports sector and sports media. While acknowledging that the area of sports media rights is particularly sensitive to competition law violations, it concludes that sports organisations should pay due attention to the creation and maintenance of “solidarity mechanisms”. Such mechanisms, the commission indicates, can take the form of a sys-

tem of collective selling of media rights or a system of individual selling by clubs, but in both cases the system must be in line with EU law.

Home-grown players

Some observers have commented that UEFA’s home-grown player rule may ultimately lead to litigation, even though UEFA claims that the quota system is neutral in terms of nationality. The commission merely states that rules requiring teams to include a certain quota of locally trained players must not lead to any direct discrimination and that any indirect discrimination must be proportionate to the legitimate objective pursued. If these conditions are met, such rules can be acceptable under the provisions of the treaty.

Going forward

The *White Paper on Sport* will now be transmitted to the European Parliament, the council, the European Economic and Social Committee and the Committee of the Regions, and its findings will be presented to EU sports ministers. In October, the commission organised a conference to discuss the white paper with sports stakeholders. The road to this point has been long and winding – one suspects that there is still some way left to go. **G**

Niall Collins is an associate solicitor with Asburst Solicitors.

RECENT DEVELOPMENTS IN EUROPEAN LAW

ADVERTISING

Case C-381/05, *De Landtsheer Emmanuel SA v Comité Interprofessionnel du Vin de Champagne (CIVC), Veuve Clicquot Ponsardin SA*, 19 April 2007. Directive 84/450 permits, subject to certain conditions, comparative advertising. This is defined in article 2(2) as "any advertising which explicitly or by implication identifies a competitor or goods or services offered by a competitor". De Landtsheer is a Belgian company that produces and markets several varieties of beer under the trademark Malheur. In 2001, it launched a beer under the name Malheur Brut Réserve, which was brewed using a process based on the production method for sparkling wines.

In its marketing it used the wording "brut réserve", "la première bière brut au monde", "bière blonde à la méthode traditionnelle", "Reims-France" and references to the winegrowers of Reims and Épernay. It also used the expression "Champagnebier" and marketed the originality of its new beer by ascribing to it the characteristics of a sparkling wine and, in particular, those of champagne.

In May 2002, the CIVC and Veuve Clicquot brought an action in Belgium against De Landtsheer, seeking a prohibition its use of this wording. It was argued that the use of the wording was not only misleading but also amounted to comparative advertising that was not permitted.

The Belgian court ordered De Landtsheer to cease using the words "méthode traditionnelle", the designation of origin "Champagne", the indication of provenance, "Reims-France" and all of the references to the winegrowers of Reims and Épernay and to the method of producing champagne. The claim concerning the use of other wording was

rejected. De Landtsheer withdrew the use of "Champagne" but appealed against the judgment in relation to all the other elements of the case.

The respondents brought a cross-appeal relating to the use of the wording that the original court had given judgment against them. The Court of Appeal in Brussels referred a number of questions to the ECJ. It asked whether directive 84/450 must be interpreted as meaning that a reference in an advertisement to a type of product, and not to a specific undertaking or product, can be considered as comparative advertising.

The ECJ held that such a reference can be considered as comparative advertising where it is possible to identify an undertaking or the goods that it offers as being actually referred to by the advertisement. The fact that a number of the advertiser's competitors or the goods or services that they offer may be identified as being in fact referred to by the advertisement is of no relevance for the purpose of recognising the comparative nature of the advertising.

The Belgian court had also asked whether the directive must be interpreted as meaning that, for products without a designation of origin, any comparison that relates to products with designations of origin is not permitted.

The ECJ held that, where all other conditions governing whether comparative advertising is permissible are met, protection of designations of origin that would have the effect of absolutely prohibiting comparisons between products without designations of origin and others with designation of origin would be unwarranted and could not be justified under the provisions of the directive. For products without a designation of origin, any comparison relating to products with des-

ignations of origin is not impermissible.

CRIMINAL LAW

Case C-303/05, *Advocaten voor de Wereld VZW v Leden van de Ministerraad*, 3 May 2007. Council framework decision 2002/584/JHA on the European arrest warrant introduced a simplified system for the surrender of convicted persons or suspects between judicial authorities in member states. Certain offences give rise to surrender on the basis of a European arrest warrant without verification of the double criminality of the act, on condition that the offences in question are punishable in the issuing member state by a custodial sentence or a detention order of a maximum period of at least three years.

In 2004, the applicant brought an action in the Belgian courts seeking the annulment of the Belgian law transposing the provisions of the framework decision into Belgian law. The appeal court made a reference to the ECJ. The applicant had submitted that the introduction of the European arrest warrant should have been regulated by means of a convention.

The ECJ held that it could have been the subject of a convention. However, it was within the discretion of the council to give preference to the legal instrument of the framework decision, in the case where, as in the present, the conditions governing the adoption of such a measure are satisfied.

The applicant argued that the removal of double criminality for certain offences mentioned in the framework directive is contrary to the principle of legality in criminal matters. The principle implies that legislation must clearly define offences and the penalties they attract. This condition is satisfied where the indi-

vidual concerned is in a position to know which acts or omissions render him criminally liable.

The court found that the decision does not seek to harmonise the criminal offences in question in respect of their constituent elements or of the penalties they attract. Thus, while it dispenses with the verification of double criminality for certain categories of offences, the definition of those offences and of the penalties applicable continues to be determined by the law of the issuing member state. This law must respect fundamental rights and fundamental legal principles, including the principle of the legality of criminal offences and penalties.

The applicants had also argued that the principle of equality and non-discrimination was infringed by the decision. For offences other than those covered by the decision, surrender may be made subject to the condition that the facts in respect of which the arrest warrant was issued constitute an offence under the member state of execution. The applicant argued that the distinction was not objectively justified.

The ECJ pointed out that the 32 categories of offences (by reason of their inherent nature or by reason of the punishment incurred of a maximum of at least three years) are among those whose seriousness, in terms of adversely affecting public order and public safety, justifies dispensing with the verification of double criminality. The council had formed this view on the basis of the principle of mutual recognition between member states and in the light of the high degree of trust and solidarity between members.

The court then considered whether the lack of precision in the definition of the categories of offences in question risked giving rise to disparate imple-

mentation of the framework decision within the various member states. The court held that it was sufficient to point out that it is not the objective of the framework decision to harmonise the substantive criminal law of the member states.

EMPLOYMENT

Case C-438/05, *The International Transport Workers' Federation & The Finnish Seamen's Union v Viking Line ABP & Ou Viking Line Eesti*, 23 May 2007. The International Transport Workers' Federation (ITF) is a federation of transport union workers from various states. It is based in London and operates a 'flag of convenience' policy. According to this policy, unions in a state where beneficial ownership of a ship is to be found (regardless of the flag of the ship) have the right to conclude agreements covering that ship.

Viking Line is a Finnish ferry company that owns the *Rosella*, a Finnish-flagged ferry operating between Tallinn and Helsinki. It is crewed by members of the Finnish Seamen's Union (FSU), which is affiliated to the ITF. In October 2003, Viking Line sought to reflag the ferry by registering it in Estonia. This was done to allow Viking Line to employ an Estonian crew on lower Estonian wages, thus enabling it to compete more effectively with other ferries on the route. When the proposal was made known to the crew and the FSU, they opposed the proposal.

Following a request from the FSU, the ITF sent a circular to all its members stating that the ship was beneficially owned in Finland and that therefore the FSU retained the negotiating rights. Non-compliance with the circular could lead to sanctions and potentially exclusion from the ITF. This prevented Viking Line from dealing with an Estonian union. The FSU threatened strike action. In response, Viking agreed to increase crew numbers and not to commence reflagging before

February 2005.

Viking Line brought an action against the ITF in England. It sought an order that the ITF be ordered to withdraw the circular and that the FSU be ordered not to interfere with Viking Line's rights to freedom of movement in relation to the reflagging of the *Rosella*. The English Court of Appeal referred a number of questions to the ECJ concerning the application of the treaty rules on freedom of establishment and whether the actions of the FSU and ITF constituted a restriction on freedom of movement.

Advocate General Poiares Maduro stated that the treaty rules on freedom of movement do apply to the situation in question. Public interests relating to social policy and fundamental rights may justify certain restrictions on freedom of movement, as long as they do not go beyond what is necessary. However, the fact that social policy is one of the aims of the *EC Treaty* does not mean that measures taken in this field are automatically excluded from the scope of the rules on freedom of movement. He concluded that the rules on freedom of movement should apply to situations involving two private parties where the action in question is capable of effectively restricting others from exercising their right to freedom of movement by raising an obstacle that they cannot effectively circumvent.

The practical effect of the coordinated actions of the FSU and the ITF is to render Viking Line's right to freedom of establishment subject to the FSU's consent. The advocate general noted that a coordinated policy of collective action among unions normally constitutes a legitimate means to protect the wages and working conditions of sailors. However, collective action that has the effect of partitioning the labour market and impedes the hiring of sailors from certain member states in order to protect the jobs of sailors in other mem-

ber states would strike at the heart of the principle of non-discrimination on which the common market is founded.

The advocate general said that it is for the national court to determine whether the action in question goes beyond what domestic law considers lawful, taking into account EC law. EC law does not preclude trade unions from taking collective action that has the effect of restricting the right of establishment of a company that intends to relocate to another member state, in order to protect the workers of that company. Collective action taken to prevent a company established in one member state from lawfully providing its services in another member state after relocation would be incompatible with EC law.

The advocate general also recognised that the FSU and the ITF could use collective action as a means to improve the working conditions of sailors throughout the EU. In the same way as there are limits to action at a national level, there are limits to the right of collective action at European level. An obligation imposed on all national unions to support collective action by any of their fellow unions could easily be abused. Such a policy would be liable to protect the collective bargaining power of some national unions at the expense of the interests of others and to partition the labour market in breach of the rules on freedom of movement. If other unions were free to choose whether or not to participate in a given collective action, this danger would be prevented. It is for the national court to determine whether this is so in the present case.

SERVICES

Joined Cases C-338/04, C-359/04 and C-360/04, *Criminal proceedings against Massimiliano Placanica and Others*, 6 March 2007. Under Italian law,

collecting bets or organising games of chance requires a licence and a police authorisation. Infringement of this law is a criminal offence with a penalty of up to three years' imprisonment.

In 1999, Italian authorities issued a call for tenders. This resulted in an award of 1,000 licences for sports betting and a further 1,000 licences for betting on competitive horse events. The calls for tender excluded companies whose shares were quoted on the regulated markets.

One such company was Stanley International Betting Ltd. It is a company incorporated under English law and a member of the Stanley Leisure plc group. The group is an English company quoted on the London Stock Exchange and the fourth biggest bookmaker and the largest casino operator in Britain. Stanley operates in Italy through data transmission centres run by independent operators with contractual links to Stanley. These operators place a data transmission link at the disposal of bettors so that they can access Stanley's host computer in Britain. Mr Placanica and others are operators linked to Stanley.

In 2004, they were charged with collecting bets without the required police authorisation. The courts before which they were charged asked the ECJ whether the Italian legislation on betting and gaming is compatible with the EC principles of freedom of establishment and the freedom to provide services.

The ECJ pointed out that the Italian legislation restricted the freedom of establishment and the freedom to provide services. Moral, religious or cultural factors can justify such restrictions provided that they are proportionate.

Italy argued that it required licences to prevent betting and gaming being used for criminal purposes. The court acknowledged that a licensing system may be an efficient mechanism enabling control of operators

active in that sector. However, it held that it has insufficient facts before it to be able to assess whether the limitation of the total number of licences is compatible with EC law. It directed the national court to determine whether the limitation of the number of operators genuinely contributed to the prevention of the exploitation of

activities in that sector for criminal or fraudulent purposes.

The ECJ also held that the blanket exclusion of companies from tender procedures went beyond what was necessary to achieve these objectives. There are other means to monitoring the accounts and activities that impinge to a lesser extent on the

freedom of establishment and the freedom to provide services.

In view of the unlawful nature of the exclusion of certain operators from the tender procedures, Italy has an obligation to lay down detailed procedural rules to ensure the protection of the rights that those operators derive by direct effect of EC law.

Meanwhile, the lack of a licence cannot be a ground for the application of sanctions to such operators.

The court finally held that criminal penalties could not be imposed. Criminal legislation on the part of a member state may not restrict fundamental freedoms guaranteed by EC law. **G**

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Property Registration Authority, Chancery Street, Dublin 7

(Published 2 November 2007)

Regd owner: Ethna Cogley; folio: 5362F; lands: Mortarstown and barony of Carlow; **Co Carlow**

Regd owner: Maureen McGovern, Denmore, Carrickaboy, Co Cavan; folio: 6969F; lands: Drumavaddy (Clanmahon By), Denmore or Leggendenn; **Co Cavan**

Regd owner: Michael McMahon; folio: 15546; lands: townland of Ballinacragga and barony of Bunratty Lower; **Co Clare**

Regd owner: Sean Brennan and Teresa Anne Brennan; folio: 2125F; lands: townland of Roslevan and barony of Bunratty Upper; **Co Clare**

Regd owner: Patrick Callinan; folio: 19617; lands: townland of Booltiaghadine and barony of Inchiquinn; area: 19.5792 hectares; **Co Clare**

Regd owner: Bridget Cotter; folio: 5768; lands: townland of Doonmore and barony of Ibrickan; area: 7.7077; **Co Clare**

Regd owner: Stephen Kelly and Mary Kelly; folio: 4593 and 10956F; lands: townland of Kilmaeduan East and Aughagarna and barony of Moyarta; **Co Clare**

Regd owner: Margaret O'Gorman; folio: 8221 and 28394; lands: townland of Kilbaha North, Kilbaha South, Carrowmore South and barony of Moyarta, Ibrickan; **Co Clare**

Regd owner: Enrico Peters and Rene Peters; folio: 7091F; lands: townland of Cloonamirran and barony of Leitrim; **Co Clare**

Regd owner: Hubert Breitkopf and Joyce Breitkopf; folio: 47196F; lands: plot of ground situate in the townland of Gortnaclohy and barony of Carbery West (East Division) in the county of Cork; **Co Cork**

Regd owner: James Finbar Desmond and Kathleen Desmond and the per-

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son entitled to be registered owner, Mary Quirke; folio: 36604F; lands: plot of ground situate in the townland of Ballincollig and barony of Muskerry East, in the county of Cork; **Co Cork**

Regd owner: Joan Donoghue; folio: 1837; lands: plot of ground situate in the townland of Ballycoskery and barony of Orrery and Kilmore in the county of Cork; **Co Cork**

Regd owner: Andrew Herlihy (deceased) and Margaret Cora Herlihy; folio: 26275F; lands: plot of ground situate in the townland of Ballyvoloon and barony of Barrymore in the county of Cork; **Co Cork**

Regd owner: Kevin Lucey; folio: 72315F; lands: plot of ground situate in the townland of Currahaly in the barony of Muskerry East in the county of Cork; **Co Cork**

Regd owner: Kathleen O'Connell; folio: 2600; lands: plot of ground situate in the townland of Knockbrack (ED Rahan) and barony of Fermoy in the county of Cork; **Co Cork**

Regd owner: Daniel Sheehan (deceased); folio: 43240; lands: plot of ground situate in the townland of Ballyvorishen West and barony of Barrymore in the county of Cork; **Co Cork**

Regd owner: Vincent O'Boyle, Knockastroller, Bunbeg, Co Donegal; folio: 27433; lands: Meenaduff; **Co Donegal**

Regd owner: Charles Brady, Cranny Lower, Inver, Co Donegal; folio: 25207; lands: Cranny Lower; **Co Donegal**

Regd owner: Anne Marie Gallagher, Derrycassan, Downings, Co Donegal; folio: 38943; lands: Derrycassan; **Co Donegal**

Regd owner: Brady's Dublin Limited (limited liability company); folio: DN30660F; lands: a plot of ground

being part of the townland of Castleknock and barony of Castleknock; **Co Dublin**

Regd owner: Paul Hastings and Martina Hastings; folio: DN152072F; lands: property known as 24 Stepside Park, Stepside, situate in the townland of Kilgobbin and barony of Rathdown; **Co Dublin**

Regd owner: Roisin Sullivan and Philip Sullivan, 52 Seagrang Road; folio: 46728L; **Co Dublin**

Regd owner: Mary Crealy, Law Agent, Fingal County Council; folio: DN2191; lands: lands comprised in folio DN2191; **Co Dublin**

Regd owner: Maureen (otherwise Mary) Corr; folio: 12429; lands: townland of Creggs, Creggauns and Funshin and barony of Ballymoe; **Co Galway**

Regd owner: Patrick Gavin; folio: 16145; lands: townland of Doon (Moycullen By) and barony of Moycullen; **Co Galway**

Regd owner: Peter John Madden; folio: 1254F; lands: townland of Creggaunagroagh and Caltrapallas and barony of Tiaquin; **Co Galway**

Regd owner: Brian Martyn; folio: 45606F; lands: townland of Tobernaclug and Gortaleen and barony of Ballymoe; **Co Galway**

Regd owner: Michael O'Malley; folio: 24705; lands: townland of Moycullen and barony of Moycullen; **Co Galway**

Regd owner: Martin Holleran; folio: 47088; lands: townland of Carrowkeel and barony of Ross; area: 17 acres, 2 roods, 21 perches; **Co Galway**

Regd owner: Tommy Joe Geraghty; folio: 2505; lands: townland of Cartron (ED Caltra) and barony of Kilconnell; area: 2.7973; **Co Galway**

Regd owner: James P Heffernan; folio: 10678; lands: townland of Douglas

and barony of Trughanacmy; **Co Kerry**

Regd owner: Edmund O'Sullivan Snr and Edmund O'Sullivan Jnr; folio: 260L; lands: townland of Woodlawn and Magunihy; **Co Kerry**

Regd owner: Kevin Teahan; folio: 19078; lands: townland of Aughllis and barony of Corkaguiny; **Co Kerry**

Regd owner: Henry B Williams; folio: 633F; lands: townland of Crosstown and barony of Magunihy; **Co Kerry**

Regd owner: Robert Curtis; folio: 6648L and 6649L; lands: parish of St Nicholas and county borough of Limerick; **Co Limerick**

Regd owner: Gerard Lawlor and Michael Lawlor; folio: 2810F; lands: townland of Singland and barony of Clanwilliam; **Co Limerick**

Regd owner: William O'Neill; folio: 11423, 15449, 15450, 20461; lands: townland of Castleroberts/Fannings-town and barony of Coshma; **Co Limerick**

Regd owner: Frank Lee; folio: 21450; lands: townland of Coolreiry and barony of Clanwilliam; **Co Limerick**

Regd owner: John McCarthy and Kathleen McCarthy; folio: 25804F; lands: townland of Knockroe and barony of Coonagh; **Co Limerick**

Regd owner: Fiona O'Riordan and John Ahern; folio: 37368F; lands: townland of Rockstown and barony of Clanwilliam; **Co Limerick**

Regd owner: John Fitzsimons; folio: 2510; lands: townland of Knockpatrick and barony of Shanid; **Co Limerick**

Regd owner: Charles Cowpar (deceased); folio: 430L; lands: parish of St Nicholas, electoral division Castle A; **Co Limerick**

Regd owner: Francis McArdle, Drumnacor, Ballymahon, Co Longford; folio: 2404F; lands:

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Regd owner: Abdelhak Aittigrine and Tracey Aittigrine, 15 The Park, Riverbank, Drogheda, Co Louth; folio: 23665F; lands: River Boyne; **Co Louth**

Regd owner: Thomas Cumiskey and Ursula Cumiskey, Rockmarshall, Dundalk, Co Louth; folio: 4923; lands: Rockmarshall; **Co Louth**

Regd owner: Gerard Cawley and Myra Cawley; folio: 44512F; lands: townland of Gortnaraha and barony of Clanmorris; **Co Mayo**

Regd owner: Gabrielle Bridget Chapman; folio: 11657F; lands: townland of Knockcayhillaun and barony of Burrishoole; area: 0.4605 hectares; **Co Mayo**

Regd owner: Michael Donohue (Junior); folio: 34164; lands: Ara and Aghlusky and barony of Gallen; **Co Mayo**

Regd owner: Mary Patricia Duffy; folio: 89F; lands: townland of Drummin East and barony of Murrisk; **Co Mayo**

Regd owner: Thomas Gallagher; folio: 2131; lands: townland of Tomboholla and barony of Costello; area: 22 acres, 2 roods, 21 perches; **Co Mayo**

Regd owner: Michael J Lyons and Bridie Lyons; folio: 12772F; lands: townland of Spaddagh and barony of Costello; area: 0.2403 hectares; **Co Mayo**

Regd owner: Truffant Enterprises; folio: 27412F; lands: townland of Glenagh and barony of Tirawley; **Co Mayo**

Regd owner: James Vincent Collins, Whitepark, Stamullen, Co Meath; folio: 13519; lands: Micknastown (ED Stamullen), Heathtown, Grange; **Co Meath**

Regd owner: William Jenkinson, Beamd, Ballewstown, Co Meath; folio: 41295F; **Co Meath**

Regd owner: Patrick Boyle, Knocknagaraman, Inniskeen, Co Monaghan; folio: 16443; lands: Knocknagaraman; **Co Monaghan**

Regd owner: John Joseph Flanagan; folio: 30664; lands: townland of (1) and (2) Breanamore and barony of (1) and (2) Frenchpark; area: (1) 8.3339 hectares, (2) 5.5113 hectares; **Co Roscommon**

Regd owner: Truffant Enterprises; folio: 12036, 9347, 14670F; lands: townland of Barnacawley and barony of Frenchpark; **Co Roscommon**

Regd owner: John A Browne and Diana J Browne; folio: 604F; lands: townland of Kilkilloge and barony of Carbury; **Co Sligo**

Regd owner: Truffant Enterprises; folio: 13318F; lands: townland of Tawran and barony of Coolavin; **Co Sligo**

Regd owner: Mary Mannion; folio: 37320; lands: townland of Curraghglass and barony of Ormond Lower; **Co Tipperary**

Regd owner: Edmond O'Gorman; folio: 31623; lands: townland of Touloure and barony of Iffa and Offa West; **Co Tipperary**

Regd owner: Michael Gerard Kelly, Newtown, Ballymore, Co Westmeath; folio: 5504; lands: Mullagh-cloe; **Co Westmeath**

Regd owner: Sean Casey, Cloughan, Mullingar, Co Westmeath; folio: 818F; lands: Rathconnell; **Co Westmeath**

Regd owner: Wexford County Council; folio: 5445; lands: Kellystown, Ballymore, Corlican, Ballykieren, Grange, Ballymorris and Ballymore and barony of Forth, Ballaghkeen South and Bantry; **Co Wexford**

Regd owner: Sinead Kinsella, Lacken, Blessington, Co Wicklow; folio: 20786F; lands: townland of Lackan and barony of Talbotstown Lower; **Co Wicklow**

Regd owner: Anthony Morrissey and Ann Morrissey; folio: 23704F; lands: situate in the townland of Ballindoyle, barony of Arklow and county of Wicklow; **Co Wicklow**

Regd owner: William Winters and Josephine Winters, Greenhill Road, Wicklow; folio: 1457; lands: townland of Dunbur Lower and barony of Arklow; **Co Wicklow**

Regd owner: John Joseph Mahon of Vallemount House, Vallemount, Co Wicklow; folio: 7252 and 7656; lands: plan 14a on the registry map, situate in the townland of Monamuck in the barony of Talbotstown Lower in the electoral division of Togher; plan 18 on the registry map, situate in the townland of Monamuck in the barony of Talbotstown Lower in the electoral division of Togher; **Co Wicklow**

LOST WILLS

Curtin, James (otherwise Jim) (deceased), late of Rockchapel, Lott Lane, Kilcoole, Co Wicklow. Retired teacher who died on 29 July 2007. Would any person having knowledge of a will made by the above-mentioned deceased please contact Gartlan Furey, Solicitors, 20 Fitzwilliam Square, Dublin 2; tel: 01 799 8000, fax: 01 799 8001, email: chasset@gartlan.ie

Dwyer, Nicholas (otherwise Nicholas O'Dwyer) (deceased), late of Listerlin, Tullogh, Co Kilkenny, retired farmer who died on 1 March 1962. Would any person having knowledge of a will made by the above-mentioned deceased please contact Kenny Stephenson Chapman, Solicitors, Newtown, Co Waterford; tel: 051 875 857, fax: 051 877 620

Geraghty, Dominic, late of 35 St Jarlath Road, Cabra, Dublin 7, retired general operative, Dublin City Council – died on 26 May 2007. Would any person having knowledge of a will made by the above-named deceased please contact David Christie, solicitor, Christie & Gargan, Solicitors, Unit 2, Stewart Hall, Parnell Street, Dublin 1; tel: 01 872 6974/5, fax: 01 872 6965, email: dchristie@christie-gargansolsr.ie

Halpenny, Mary Rose, (deceased), late of Baltray, Co Louth and formerly of 1 St Peter's Place, Drogheda, Co Louth. Would any person having knowledge of the whereabouts of the will dated 1 May 1987, executed by Mary Rose Halpenny, deceased, who died on 15 June 2005, please contact McKeever Taylor, Solicitors, 31 Laurence Street, Drogheda, Co Louth; tel: 041 983 8639, fax: 041 983 9762

Kelly, Michael (deceased), late of Lakefield, Clonfanlough, in the county of Offaly. Would any person having knowledge of the original will dated 1 July 1988 or any will executed by the above-named deceased, who died on 25 December 2003 at Lakefield, Clonfanlough, Co Offaly, please contact Walker O'Carroll & Hogan, Solicitors, Pearse Street, Athlone, Co Westmeath; tel: 090 649 2692, email: info@wochsols.ie

McMorrow, Mary (deceased), late of Main Street, Crossmolina, Co Mayo, who died on 19 June 2007. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Dermot Hewson, solicitor, MacHales, Ballina, Co Mayo; tel: 096 21122, fax: 096 21179, email: info@machales.com

Murphy, Daniel Joseph (deceased), late of Barnes, Allihies, Beara, Co Cork, retired scaffolder. Would any person

having knowledge of the whereabouts of a will dated 14 August 2003 or any other will executed by the above-named deceased, who died 18 December 2006, please contact O'Mahony Farrelly O'Callaghan, Solicitors, Wolfe Tone Square, Bantry, Co Cork; tel: 027 50132, fax: 027 50603, email: klynch@omahonyfarrelly.com

MISCELLANEOUS

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Seven-day publican's licence required immediately. Furnish details to Patrick J Durcan & Co, Solicitors, Westport, Co Mayo; tel: 098 25100, fax: 098 26110, email: admin@patrickjdurcan.ie

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TITLE DEEDS

Curtis, Eugene (deceased), late of 59 Raheny Park, Raheny, Dublin 5. Would any person having knowledge of the whereabouts of any title documents for 59 Raheny Park, Raheny, Dublin 5, please contact Grainne Butler, solicitor, Orpen Franks, 28/30 Burlington Road, Dublin 4; tel: 01 637 6200, fax: 01 637 6262, email: grainne.butler@orpenfranks.ie

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of an application by Paul Tiernan and in the matter of the property known as no 20 Bolton Street in the city of Dublin

Take notice that any person having an interest in the freehold estate or any

intermediate interests in the property known as no 20 Bolton Street, in the city of Dublin, held under an indenture of lease made 23 September 1803 between John Stephens, Thomas Thorpe Frank, Frances Elizabeth Frank, Thomas Todderick, George Todderick and Mary Todderick of the one part, and Michael Clarke of the other part (hereinafter called 'the 1803 lease') for a term of 270 years from 29 September 1803 at the annual rent of stg£23.6s.4¹/_d, subject to the covenants and conditions therein contained.

Take notice that Paul Tiernan intends to submit an application to the county registrar for the county of Dublin at Áras Uí Dhálaigh, Inns Quay, Dublin 7, for the acquisition of the intermediate interests in the aforesaid property, and any party asserting that they hold the fee simple or any intermediate interest in the aforesaid property are called upon to furnish evidence of title to the said property to the below-named solicitors within 21 days from the date of this notice.

In default of any such notice being received, Paul Tiernan intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county of Dublin for directions as may be appropriate on the basis that the person or persons beneficially entitled to the intermediate interests, including the fee simple, in the aforesaid property are unknown or unascertained.

Date: 2 November 2007

Signed: Messrs James V Tighe & Co (solicitors for the applicant), Main Street, Celbridge, Co Kildare

In the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of an application by IPOS Property Holding Limited

Take notice any person having an interest in the fee simple or in any superior interest in the following property: all that and those the shop, dwellinghouse, outbuildings, yards and premises situate at number 49 Parnell Street, in the city

of Limerick, which premises are comprised in an indenture of lease dated 15 December 1965 and made between Margaret O'Connor of the first part, Musgrave Brothers Limited of the second part, and Joseph O'Leary and Ursula O'Leary of the third part for the term of 764 years from 1 December 1965, subject to the yearly rent of £20 thereby reserved and to the covenants and conditions on the lessee's part therein contained.

Take notice that the applicant, IPOS Property Holding Limited, intends to submit an application to the county registrar for the county of Limerick for the acquisition of the fee simple and any intermediate interest in the aforesaid properties, and any party or parties asserting that they hold the fee simple or any superior interest in the aforesaid properties are called upon to furnish evidence of title to the under-mentioned solicitors within 21 days from the date of this notice.

In default of any such notice being received, IPOS Property Holding Limited intends to proceed with the application before the said county registrar at the end of 21 days from the date of this notice and will apply to said county registrar for such directions as may be appropriate on the basis that the person or persons beneficially entitled to any such superior interest up to and including the fee simple in the aforesaid properties is/are unknown and unascertained.

Date: 2 November 2007

Signed: William Fry (solicitors for the applicant), Fitzwilton House, Wilton Place, Dublin 2

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978: an application by Carrickbrennan Credit Union

Take notice that any person having interest in the freehold estate of the following property: Credit Union House, Monkstown Farm, Co Dublin, more particularly described in an indenture of lease dated 11 July 1934 between John

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Noblett of the first part and Nancy Finegan of the other part for the term of 300 years from 1 May 1934, subject to the yearly rent of a peppercorn for the first six months of the term, and during the residue of the term the yearly rent of £7.10 shillings, and to the covenants on the lessee's part and conditions therein contained.

Take notice that Carrickbrennan Credit Union intends to submit an application to the county registrar for the county/city of Dublin for the acquisition of the freehold interest in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid property are called upon to furnish evidence of title to the aforementioned property to the below named within 21 days of the date of this notice.

In default of any such notice being received, Carrickbrennan Credit Union intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county/city of Dublin for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the property aforesaid are unknown or unascertained.

Date: 2 November 2007

Signed: Partners at Law (solicitors for the

applicant), 8 Adelaide Street, Dun Laoghaire, Co Dublin

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) Act 1967 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of the premises situate at Canopy Street, Cashel, in the county of Tipperary: an application by Michael Bourke

Take notice that any person having an interest in the freehold estate of, or any superior intermediate interest in, the dwellinghouse, messuage, yard and premises situate at Canopy Street, Cashel, in the county of Tipperary, held under a yearly tenancy arising on the expiration of the lease dated 9 October 1905 and made between Maria Grace of Hill House, Cashel, in the county of Tipperary, of the one part and Andrew O'Grady and Alice O'Grady, both of Ladyswell Street, Cashel, in the said county, of the other part, for a term of 99 years as and from 1 January 1905 at a yearly rent of £16.13 (Irish), therein described as the dwellinghouse, messuage, yard and premises. Premises are delineated in the map in the fold of the lease dated 9 October 1905 and thereon coloured red and story coloured blue,

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should give notice to the undersigned solicitors.

Take notice that the applicant, Michael Bourke, being the person entitled under section 15 of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*, intends to submit an application to the county registrar for the county of Tipperary for the acquisition of the freehold interest and the intermediate interest in the aforesaid property, and any party availing that they hold a superior interest in the aforesaid premises or any of them are called upon to furnish evidence of title to the aforementioned premises to the below named within 21 days of the date of this notice.

In default of such notice being received, the applicant intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county of Tipperary for such directions as may be appropriate on the basis that the person or persons beneficially entitled to such superior interest including freehold reversion in the aforementioned property are unknown or unascertained.

Date: 2 November 2007

Signed: Donal T Ryan, Solicitors (solicitors for the applicant), 89-90 Main Street, Cashel, Co Tipperary

In the matter of the Landlord and Tenant Acts 1967-1994 and in the

matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of an application under section 17 of the Landlord and Tenant (Ground Rents) Act 1967: an application by Sean Malone

Description of the property: all that and those the plot of ground with shop premises and overhead apartment at Newry Street, Carlingford, Co Louth.

Take notice that the applicant intends to submit an application to the county registrar for the county of Louth for the acquisition of the freehold interest in the aforesaid property, held under indenture of lease dated 1 July 1902 and made between the Honourable John Robert William Viscount de Vesci, the Honourable Sarah Ceceilia Madeville, Louisa Charlotte Fanny Countess d'Espons de Paul Algernon Barlow, and Lyonell Barlow of the one part and William Charles Browne of the other part, which lease commenced on 1 May 1902 and demised for a term of 150 years, subject to a yearly rent of £20 and to the covenants and conditions contained therein.

Take notice that any party asserting to hold a superior interest in the aforesaid premises are called upon to furnish evidence of the title to the aforementioned premises to the below named within 21 days from the date of this notice.

In default of any such notice being

received, the applicant intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county of Louth for such directions as may be appropriate on the basis that the persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid premises are unknown or unascertained.

Date: 2 November 2007

Signed: Woods Abern Mullen (solicitors for the applicant), Third Floor, Elgee Building, Market Square, Dundalk, Co Louth

In the matter of the Landlord and Tenant Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) Act 1967 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of the Landlord and Tenant (Amendment) Act 1984 and in the matter of the licensed dwellinghouse, shop and premises situated at Main Street in the town and parish of Killarney, barony of Magunihy, Co Kerry, and in the matter of an application by Dermot O'Leary

Take notice that any person having any interest in the freehold estate of or any superior or intermediate interest in the licensed dwellinghouse, shop and premises situated at Main Street in the town of Killarney, parish of Killarney, barony of

Magunihy and county of Kerry, being all of the property held under an indenture of lease made 24 March 1915 between Helena Mary Bourke and Francis Cronin-Coltsman of the one part and Patrick Cronin of the other part for the term of 99 years from 28 February 1915, subject to the yearly rent of £15 and the covenants on the part of the lessee and conditions therein contained, should give notice to the undersigned solicitors.

Take notice that the applicant, Dermot O'Leary, intends to apply to the county registrar for the county of Kerry for the acquisition of the freehold interest and all intermediate interests (if any) in the above-mentioned property, and any party asserting that they hold an interest superior to the applicant in the aforesaid property are called upon to furnish evidence of title to same to the below-named solicitors within 21 days from the date hereof.

In default of any such notice being received, the applicant intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county of Kerry for such directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforementioned property are unknown or unascertained.

Date: 2 November 2007

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Web site: www.berdagueraabogados.com

Signed: *Niall Brosnan & Co, Solicitors (solicitors for the applicant), 5 St Anthony's Place, College Street, Killarney, Co Kerry*

In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of the premises at 45 Phoenix Street, Inchicore, Dublin 10: an application by Peter Doyle

Take notice that any person having an interest in the freehold estate of the following property: 45 Phoenix Street, Inchicore, Dublin 10, more particularly described in an indenture of lease dated 3 July 1888 and made between Jane Worthington of the one part and Samuel Eugene Worthington of the other part, whereby the premises comprised in the memorialised indenture were demised to the said Samuel Eugene Worthington for the term of 199 years from 3 July 1888, subject to the payment of the yearly rent of £31 and 11 shillings (adjusted to Ir£30.47) and subject to the covenants and conditions therein contained.

Take notice that the applicant, Peter Doyle, intends to submit an application to the county registrar for the county/city of Dublin for the acquisition of the freehold interest in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid premises are called upon to furnish evidence of the title to the aforementioned premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, Peter Doyle intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the

county registrar for the county/city of Dublin for directions as may be appropriate on the basis that the persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid property are unknown and unascertained.

Date: 2 November 2007

Signed: *Houlihan O'Donnell Flaherty (solicitors for the applicant), 32 Lennox Street, Portobello, Dublin 8*

In the matter of the Landlord and Tenant Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978: an application by William Cullen

Take notice that any person having any interest in the freehold estate of the following property: all that and those the property known as 27A Upper Drumcondra Road, Drumcondra, Dublin 9, held under an indenture of lease dated 12 September 1919 made between William John Shannon of the first part, Grace O'Dowd, Agnes Harding, Eileen Joyce, Emily Lenehan, Norah Farley, Frances Butterly and Fiona Butterly of the second part, and Christopher Kenny of the third part for a term of 170 years from 1 September 1919, subject to the rent thereby reserved and the covenants and conditions therein contained.

Take notice that William Cullen intends to submit an application to the county registrar for the city of Dublin for the acquisition of the freehold interest in the aforesaid property, and any person asserting that they hold a superior interest in the aforesaid property are called upon to furnish evidence of title to the aforementioned property to the below named within 21 days from the

NOTICE TO THOSE PLACING RECRUITMENT ADVERTISEMENTS IN THE LAW SOCIETY GAZETTE

Please note that, as and from the August/September 2006 issue of the *Law Society Gazette*, NO recruitment advertisements will be published that include references to years of post-qualification experience (PQE).

The *Gazette* Editorial Board has taken this decision based on legal advice, which indicates that such references may be in breach of the *Employment Equality Acts 1998 and 2004*.

date of this notice.

In default of any notice being received, William Cullen intends to proceed with the application before the county registrar at the end of the 21 days of this notice and will apply to the county registrar for the city of Dublin for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforementioned premises are unknown or unascertained.

Date: 2 November 2007

Signed: *Eugene F Collins & Co (solicitors for the applicant), Temple Chambers, 3 Burlington Road, Dublin 4*

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Seeking training contract. Hardworking, enthusiastic graduate seeks a training contract. Commerce and LLB graduate of NUI Galway. Currently taking a part-time diploma in family law. All FE1s and first Irish exam passed. Available to commence November 2007. CV available on request. Please reply to **box no 100/07**

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Dublin – PP0295

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Commercial Property, Senior Associate level

Dublin – PP0308

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Commercial Property, Associate level

Dublin – PP0307

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Corporate, Associate level

Dublin – PP0303

This respected Dublin-based practice is currently recruiting for an enthusiastic, energetic and career-focused lawyer. You will be involved in a range of transactions for a variety of clients, including domestic and international banks and major corporates. You will have strong academics and a robust and dynamic approach. Highly competitive salary and benefits package will apply.

Corporate Finance, Assistant level

Dublin – PP0300

A solicitor is sought for the large and successful Corporate Department in this top legal practice. You will be dealing with a range of corporate issues, focusing mainly on mergers and acquisitions. Ideally, you will have some post qualification experience dealing with corporate/commercial work. Strong newly qualified solicitors will also be considered. This is a superb opportunity to gain solid experience in a top tier firm. Attractive remuneration package is on offer.

Corporate, Senior Associate level

Dublin – PP0304

A senior lawyer is sought by this Dublin law firm to join the Commercial Department. You will be advising an impressive client base consisting of domestic and international corporations as well as investment institutions. You will have solid corporate experience preferably including exposure to cross border share purchase and joint venture agreements. You will have excellent drafting and analytical skills and the ability to prioritise effectively and meet deadlines. Excellent remuneration applies, commensurate with experience.

Corporate, Senior Associate level

Dublin – PP0306

This highly-regarded Dublin firm is looking for a senior lawyer with solid general corporate experience, including mergers and acquisitions, management buyouts, capital markets, financial services, joint ventures and project finance. At this level you will have experience of running your own transactions and should be looking to play a frontline role in managing client relationships. You must have sound experience of, and fluency at handling transactions, gained at a reputable firm. A first rate salary and benefits package applies.

Funds, Associate level

Dublin – PP0291

One of Dublin's strongest law firms is looking to recruit an ambitious solicitor. You will advise investment managers, custodians, administrators and other service providers of investment funds on establishing operations in Ireland. Excellent salary and benefits package will apply, plus bonus.

For more information on these and other vacancies, please visit our website or contact

Michael Benson bcl solr. in strict confidence at:

Benson & Associates, Suite 113, The Capel Building, St. Mary's Abbey, Dublin 7.

T +353 (0) 1 670 3997 E mbenson@benasso.com

Recognising talent's one thing... finding the truly successful fit is another

Funds, Senior Associate level

Dublin – PP0292

This is an excellent opportunity for a Funds specialist to take up a senior appointment at this highly-regarded law firm. You will advise international and domestic clients on setting up and servicing funds in Ireland. You will be strongly commercial, client-facing and have an excellent academic record. There is a generous salary and benefits package available for the successful candidate.

Insurance, Associate level

Dublin – PP0296

Due to expansion, this leading Dublin law firm is seeking an outstanding Insurance specialist to join the existing team. The team provides advice to all sectors of the insurance industry, including General Insurance, Life Assurance and Reinsurance. You will have gained solid experience advising on some of the above matters and have excellent drafting skills. You will also have sound academics and excellent interpersonal skills. First-rate remuneration applies, commensurate with experience.

Litigation - Medical Negligence, Associate level

Dublin – PP0305

This well-established law firm is seeking a Litigation solicitor specialising in medical negligence. Working with a senior partner, this is a challenging role with excellent prospects for career advancement. You will be dealing with an interesting and diverse workload which will include high-profile cases. First class salary and benefits package applies.

Pensions, Assistant Associate level

Dublin – PP0298

This leading Dublin-based law firm is seeking a solicitor to join the Pensions department. The successful candidate will be required to provide advice on all issues that involve occupational pensions schemes to international and domestic clients in both the public and private sectors. There will be some transactional work but the vast majority will be stand alone pensions advisory. The ideal candidate will have pensions experience gained at a well-respected firm. First-rate salary and benefits package applies, commensurate with experience.

Employment, Paralegal

Dublin – PP0294

This prestigious firm is seeking an ambitious paralegal to join its Employment Department. The team provides legal advice on all areas of employment and equality law, employers' liability and health and safety at work. You will provide support to the solicitors in the department as part of this close-working team. You will have solid experience as a legal executive, preferably in an Employment environment. You will also have a creative, problem-solving approach. You should be able to use your initiative in addition to being a strong team player. Competitive remuneration applies, commensurate with experience.

■ IN-HOUSE POSITIONS

Head of Legal – International Financial Services

Dublin – IHN0023

Reporting to the Global Head of Legal Affairs, you will be responsible for all legal matters in the Dublin office of this international financial services company. Key responsibilities will include perusing documentation from a legal prospective, preparing standard documentation and, if appropriate, credit facilities and foreign exchange facilities. You will also be expected to achieve commercial objectives and be responsible for risk management. There is a generous salary and benefits package available for the successful candidate.

Legal Advisor – Engineering

Dublin – IHN0037

This leading international engineering company is seeking a corporate solicitor to join the in-house legal team. You will provide advice on a wide range of legal and regulatory issues and as well as contract management where appropriate. Duties will include providing core legal advice needed for the company's day-to-day business activities as well as liaising with external legal advisors. Candidates will be qualified solicitors or barristers with significant Corporate/Commercial experience. Exposure to contracts and construction will be a strong advantage. Excellent remuneration applies.

Senior Lawyer

Cork – IHN0035

This leading Irish energy company is seeking a senior corporate solicitor to join the in-house legal team. You will provide advice on a wide range of legal and regulatory issues and supervise external legal advisors where appropriate. Duties will include drafting and negotiating a wide range of commercial agreements as well as the day-to-day running of the department. Experience in the areas of energy, regulation, commercial contracts, construction, projects or a related area will be a strong advantage. Excellent remuneration applies, commensurate with experience in addition to a strong performance element.

CAN YOU RAISE THE BAR?

Positions Available

Corporate

Talented, commercially aware solicitors sought by a mid tier firm with an established reputation. Excellent career prospects accompany this role. [rcpp-0033]

Assistant – Associate €65,000 - €80,000 + Bonus & Benefits

Pensions

One of Ireland's leading firms is actively seeking practitioners to join its world class pensions practice. Applicants with experience from a reputable corporate firm and a demonstrable interest in pensions are invited to apply. [rcpp-0017]

Assistant - Associate €Outstanding Remuneration

Commercial Property

An Industry leader is looking to recruit a number of ambitious commercial property lawyers. The demand for talented practitioners in this area makes it an exceptional opportunity to progress your career. [rcpp-0009]

Assistant – Associate €65,000 - €80,000 + Bonus & Benefits

Banking & Finance

The continued success of this top 20 firm has led to an expansion role within its banking and finance division. The successful candidate will advise an enviable range of indigenous and global clients. [rcpp-0010]

Associate – Senior Associate €75,000 -€95,000 + Bonus & Benefits

Intellectual Property

Join a stellar team, headed by a true IP rainmaker. You will advise on a range of contentious and non-contentious intellectual property matters and provide additional transactional support. [rcpp-0023]

Junior, Assistant & Associate €60,000 - €85,000 + Bonus & Benefits

Litigation

A highly varied and rare litigation role is available within one of Ireland's top firms.

This role is directed at ambitious, career driven individuals with a commercial approach. [rcpp-0022]

Assistant – Associate €68,000 - €80,000 + Bonus & Benefits

Tax Specialist

Impressive communication skills and a detailed knowledge of Irish taxation law are essential for this new role within a highly regarded practice. AIT qualified applicants will also be considered. [rcpp-0021]

Associate – Senior Associate €Negotiable Salary + Superb Benefit Package

In-house legal advisor

Due to significant growth in the online sector, my client seeks candidates to join its in-house team, advising on a range of issues from corporate M&A to employment law. [rcih-0003]

Senior Associate €75,000 - €95,000 + Bonus & Benefits

In-house commercial

Applicants with a strong commercial pedigree are welcome to apply for a new role in the corporate energy sector. Regulatory and procurement experience preferred. [rcih-0015]

Associate €80,000 - €95,000

For additional information in respect of these and other vacancies please contact

Darren Flavey +353 | 894-3025

darrenf@meghengroup.ie

Robert Connolly +353 | 894-3023

robertc@meghengroup.ie

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Do you wish to join a law firm with a culture of team work and mutual support working on the most complex and significant transactions both domestic and international? Do you have the confidence and ability to test yourself on legal work of the highest quality?

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We are seeking professionals who want to make a smart move and join our teams in the following areas:

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- **Energy**
- **Pensions & Employee Share Plans**
- **Professional Support**
- **Construction**
- **Derivatives & Financial Services Regulation**
- **Investment Management**
- **Planning & Environment**
- **Restructuring & Insolvency**

See our website at www.mccannfitzgerald.ie for more information about these opportunities. Applications and CVs should be forwarded by 16 November to Ann-Marie Carroll, McCann FitzGerald, Riverside One, Sir John Rogerson's Quay, Dublin 2 or by email to annmarie.carroll@mccannfitzgerald.ie and should indicate clearly which team you would like to join.

McCann FitzGerald

Dublin - Belfast - London - Brussels

Corporate Solicitor

Limerick City €Excellent

Our Limerick city client seeks a corporate solicitor. This team provides a high standard of legal advice to an expanding list of clients. This key appointment arises due to their continued success. As this is a newly created position, a wide variety of candidates will be considered.

The Role

- A varied role including private business acquisitions & disposals, corporate finance, commercial contracts, joint ventures, public procurement and public administrative, data protection & competition law.
- Liaising with clients and understanding their needs.

The Person

- Driven individual with superb communication skills who can interact with clients in a friendly manner.
- Specific IP/competition experience may suit as the team seeks to add further expertise to these areas.

Interested candidates should contact Kate Coughlan in strictest confidence on 021 422 1000. Alternatively you may email your CV to k.coughlan@brightwater.ie



49 South Mall, Cork.
Tel: 021 422 1000

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Mourant du Feu & Jeune
Funds Lawyers - Jersey and the Cayman Islands

Mourant International Finance Administration
Commercial Property Lawyers/Funds Lawyers - Jersey

Mourant du Feu & Jeune is one of the world's leading offshore law firms specialising in legal advice across a range of practice areas to corporate and institutional clients. We are looking for Funds Lawyers at all levels to join our growing global teams in Jersey and the Cayman Islands working on private equity, property and hedge funds.

Mourant International Finance Administration provides administration services to a group of prestigious corporate and funds clients across the globe. We are looking for experienced Commercial Property and Funds Lawyers at all levels to join our dynamic team in Jersey to advise fund trustees and directors in an in-house capacity and also to provide day to day support to our real estate administration teams launching new funds and vehicles.

Our headquarters are in Jersey and we have offices in Cayman, Dubai, Guernsey, Hong Kong, London, Luxembourg, New York, San Francisco and Singapore. Our strategy is about making the most of our combined expertise to offer a real depth of service.

Mourant du Feu & Jeune is the number one legal adviser to funds in Jersey and Mourant International Finance Administration is the island's number one administrator to funds, according to Lipper Fitzrovia Jersey Funds Encyclopaedia 2007-08. Mourant du Feu & Jeune has ranked top for eight consecutive years and has a market share of Jersey funds (by net asset value) of 43%. Mourant International Finance Administration currently has over US\$150 billion of funds under administration globally.

We select people for their enthusiasm and commitment and we only choose the very best. Mourant is an exciting place to work as we're rapidly expanding and we offer you the chance to take your career where you want. We will support you with training and professional development and there are opportunities to work in our different offices. You will also be rewarded with an attractive salary paid on a low tax or tax free basis and a range of benefits which can be adapted to suit your lifestyle.

We will be visiting Dublin in November 2007 and are keen to meet prospective candidates to discuss the opportunities available.

For more information about these roles, to arrange a confidential discussion with us or to submit your CV please contact

Jo Le Boutillier
T + 44 (0)1534 609 209
jo.leboutillier@mourant.com

www.mourant.com/careers

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For information on these vacancies or to discuss other career opportunities, please contact John Cronin Solicitor, PRC Recruitment Limited, 1D Corn Exchange, Poolbeg Street, Dublin 2. Tel: 01-6139510 or e-mail johncronin@prc.ie

BANKING / FINANCIAL SERVICES - DUBLIN 2 - SENIOR ASSOCIATE/PARTNER €125K+

Due to expansion, the highly successful commercial law firm requires a Banking Solicitor to join its growing team at Senior Associate or Partnership level for an outstanding candidate. The successful candidate will have a number of years' experience working in the banking and financial services sector, either in-house or in practice. H/She will now be looking for an opportunity to move to Partnership level in a firm which provides the support structure for him/her to develop new business with the firm's strong client list.

COMMERCIAL LAWYER - DUBLIN 2 - SENIOR ASSOCIATE/PARTNER €NEG ++

Our client is a mid sized law firm with an enviable client base covering the breadth of commercial interests, from finance to entertainment, from technology to government and regulatory bodies are now looking for a senior commercial solicitor. You will have experience in some of the following areas: M & A, commercial restructuring, commercial advise, securities, private equity, fundraising, commercial contracts and compliance. This firm offers a great opportunity for quick progression to Partnership level for an ambitious candidate as well as real bonus making potential.

COMMERCIAL PROPERTY SOLICITOR - DUBLIN CITY CENTRE - ASSOCIATE €80K+

A leading Commercial Law firm in Dublin are now seeking a conveyancing solicitor with experience of drafting commercial leases, site acquisition/disposal and landlord and tenant issues. The successful candidate will have experience in commercial conveyancing transactions advising investors, developers and financial institutions and investigating title.

PENSIONS SOLICITOR - DUBLIN CITY CENTRE - ASSOCIATE €75K+

This is an opportunity to join the pensions team in a leading practice. The successful candidate will be advising on a broad range of public sector and international and domestic companies on pension schemes and employee share plans. Applicants should have preferably gained experience in a large or medium size practice.

CONSTRUCTION/PROJECTS LAWYER - DUBLIN CITY CENTRE - PARTNER €120K+

An opportunity now exists for a senior construction solicitor to set up and develop a Construction desk in a leading Top 15 Law Firm that has a strong client base of Commercial Property Developers. The firm is experiencing a high demand from its clients for this service as many other firms are conflicted. The ideal person has experience of a high level of involvement in a wide range of PPP projects dealing with private and public sector clients and would gained exposure to high profile projects.

IN HOUSE COMMERCIAL TELECOM SOLICITOR - DUBLIN CITY CENTRE €75K+

This company is one of the leading names in Telecommunications in Ireland and is now looking for a legal counsel to join its existing team of lawyers. The successful candidate will have experience in commercial contract negotiations and Data Protection/IP/IT/E-commerce matters as well as compliance and regulatory experience. You should have a good commercial approach preferably developed either in-house in a blue-chip company or in a reputable private practice. You will have the ability to work relatively independently.

IN HOUSE BANKING LEGAL ADVISERS - DUBLIN 2 €80K+

Leading Irish bank now requires lawyers to join its team based in their Dublin HQ. Providing legal advise across all divisions of the bank including Retail Markets, Capital Markets and Corporate Banking, he/she will be either a barrister/solicitor who has a good understanding of banking law and a desire to learn more. Highly attractive remuneration and training/career progression is provided to the successful candidates.

PROFESSIONAL SUPPORT LAWYER - ASSOCIATE - DUBLIN 2 €65K+

Effective knowledge management is a key factor in this Top 5 firm's continued success. It is now looking to hire professional support lawyers with experience or a genuine interest in knowledge management and legal research who have either a professional legal qualification or a law degree.

BORD NA MÓNA

OPEN TO PUBLIC COMPETITION

Conveyancing Solicitor

Bord na Mona is a commercial state company with diversified interests in the Energy, horticulture and environmental sectors. It has recently undertaken a significant restructuring to best position itself for further development and growth.

The Role

Reporting to the in-house solicitor the successful candidate will have responsibility for:

- Advising on a wide range of conveyancing issues related to Bord na Mona properties
- Successful completion of an in-house conveyancing project
- Supervision of conveyancing staff

The ideal candidate will possess the following range of experience, skills and knowledge: -

- Be a qualified solicitor with significant experience in conveyancing matters including commercial conveyancing
- Knowledge of compulsory purchase procedures and legislation would be an advantage.
- Familiarity with the requirements associated with working in a commercial state body would also be an advantage.
- Be capable of working on his/her own initiative
- Have excellent oral, written and interpersonal skills
- Be computer literate - MS Office Suite

Remuneration will be commensurate with experience and duties and responsibilities of this position.

If you wish to be considered for this position please submit your Curriculum Vitae to Ms. Celine Gorman, Manager HR Administration Shared Services Centre, Bord na Mona, Leabeg, Tullamore, Co. Offaly or email hrsscadmin@bnm.ie on or before 25th November.

Bord na Mona is an equal opportunities employer



Legal Recruitment With Guaranteed Solutions

Lex Consultancy is a unique recruitment company which operates in a specialised niche market, offering a full recruitment service for all levels of legal staff both in private practice and corporate entities within Ireland. Marrying the needs of both our clients and candidates, we offer a discreet, confidential and the highest standard of service that produces results that exceed expectations.

Please contact Michelle Nolan, Jo McAndrew and Marguerite Morgan and they will be delighted to assist you in your job search. Lex Consultancy currently have a large number of temporary / contract and permanent legal secretarial and paralegal vacancies.

Commercial Solicitor // Inhouse // Dublin // €75k plus

The successful applicant will have experience in the commercial field. Experience in procurement, IT and regulatory law is desired. This person will have the ability to work on their own initiative and to meet deadlines when required. The successful candidate must have developed interpersonal, communication and negotiating skills. A strong commercial awareness is important for this role. Ref: J609

Corporate Lawyer // Dublin // €60k plus

A Solicitor is required to join the Commercial/Corporate Department of this TOP 20 law firm based in Dublin 2. The role will include M&A transactions, drafting of Shareholders Joint Venture Agreements/Business transfer agreements and negotiation & drafting of tax deeds, share purchase agreements, corporate resolution & company law advices. Applicants must have an outstanding commercial & business focus as well as excellent communication skills, both written & oral. There is excellent career progression on offer to the successful candidate as well as above the market rate salary and package. Ref: J614

Commercial Litigation Solicitor // Dublin // €65k plus

This excellent commercial firm based in new offices in Dublin 2 are looking to recruit a Solicitor for their commercial litigation department. The firm is a dynamic and expanding enterprise and pride themselves on providing their staff with excellent support and training. The quality of their legal advice is well-known. The commercial litigation team handle a wide range of issues including (not limited to) IP, IT, professional negligence, property litigation, defamation and insolvency issues. The team is close net with a high priority put on quality of work. Ref: J557

Lex Consultancy // Professional Roles

Michelle Nolan is your Professional Legal Staff Recruitment Consultant. Michelle is from Dublin and is a graduate of University College Dublin and has also completed a number of FE1's. She ensures that an advisory and friendly relationship is enjoyed by all the clients and candidates with whom she works.

Property Solicitor // Contract // €65k plus

Join a semi-state body in the of Dublin city for a minimum of 12 months. Applicants must have experience of working on Irish commercial property transactions and be capable of working on their own initiative and as part of a team. The successful candidate should also have developed interpersonal, communication and negotiating skills. Immediate start! Ref: J638

Commercial Property Solicitor // Inhouse // €75k plus

This role provides an exciting opportunity to provide support in a critical legal area to some of Ireland's most complex and high-profile infrastructure projects. This will involve advising on property-related agreements put in place for my clients' projects, including drafting agreements directly and extensive work with external legal advisors instructed by my client. This work may involve conducting negotiations on behalf of my client as well as making submissions to An Bord Pleanála. Expertise in property law is required. Experience or knowledge of commercial law, construction law, or a related area will also be a strong advantage. Ref: J561

Medical Negligence Solicitor // Dublin // €80k plus

Top Irish Law firm based in amazing offices in Dublin 2, is seeking an additional lawyer to join its market leading Medical Negligence team. As the ideal candidate, you will have good university academics, and good solid experience and knowledge of Medical Negligence law as well as reasonable medical knowledge and IT skills. You will have a sound ability to create and develop new client relationships and to expand new client relationships on an inter-personal basis, seminar presentation, writing legal articles et cetera. Competitive salary, excellent bonuses and benefits are offered. Ref: J633

Junior Corporate / Commercial / Finance Solicitors / €55k plus

The majority of the large commercial firms are seeking to expand their teams in these departments. Should you have an interest in progressing your professional career in any of these areas, we would be happy to assist you.



www.lexconsultancy.ie

a: First Floor, 13-17, Dawson Street, Dublin 2. p: + 353 86 8809940 // e: michelle@lexconsultancy.ie // www.lexconsultancy.ie

IRELAND

CORPORATE / FINANCE DUBLIN

This top-tier firm's corporate finance teams advise on some of the world's largest and most complex M&A transactions. Candidates will ideally have experience of listed company work. Highly competitive salary and benefits. **Ref: 16333**

IP / IT DUBLIN

One of Ireland's most impressive specialist practices seek to recruit into its Dublin based IT/IP team. With a wealth of knowledge and resources and an impressive client list this is a strong career move with excellent prospects. **Ref: 16363**

BANKING DUBLIN

This leading firm's banking group is one of the key practice areas within this firm and is known for the calibre and scope of the deals it handles. Top quality experience and ideal platform for progression. **Ref: 12303**

TAX DUBLIN

This firm's tax team advises Irish and overseas companies on a broad range of corporate transactions across a wide range of tax related matters. A great role working with some of Ireland's leading tax specialists. **Ref: 12043**

PROJECTS DUBLIN

Make a move into a projects role with this superb firm. Whilst previous dedicated projects experience is not required, knowledge of finance, contracts or procurement work would be helpful. Top level salary on offer. **Ref: 12023**

ENERGY DUBLIN

Join the renewable energy/engineering practice of this dynamic firm. Preferred background is construction/projects with non-contentious energy or projects experience. Mix of domestic and international work. **Ref: 13533**

IN-HOUSE - ENERGY CORK

Leading energy company is looking to recruit an experienced lawyer to join this dynamic organisation based in Cork. Main duties will be drafting and negotiating a wide variety of commercial agreements. **Ref: 16283**

IN-HOUSE - FS DUBLIN

Leading global reinsurer is looking for an in-house lawyer to join its niche Dublin team. Responsibilities will include dealing with the financial regulator in Ireland, along with corporate and general legal matters. **Ref: 16233**

IN-HOUSE - PENSIONS DUBLIN

This is an excellent opportunity to specialise within an in-house role. Candidates will be hard working team players and will have wide pensions experience ideally with some exposure of funds. Competitive salary available. **Ref: 16303**

IN-HOUSE - CONTRACTS DUBLIN

General commercial contracts role required to join this expanding team based in Dublin. Great opportunity offering lots of autonomy and variety. Good commercial experience and strong commercial acumen required. **Ref: 16043**

LEGAL COUNSEL DUBLIN

Worldwide leading investment bank is looking to recruit a legal counsel to support its finance teams and new business ventures. This is a challenging, business focused role with great prospects to develop existing skills. **Ref: 16513**

IN-HOUSE - IP DUBLIN

Exciting opportunity has arisen to join this Dublin based media company. The ideal candidate will be involved in commercial contract work with a complete range of legal support work. Great opportunity. **Ref: 16523**

LONDON

REAL ESTATE £65,000-£80,000

Tremendous career development potential on offer and range of commercial work for a varied blend of prestigious UK and international clients. Business development & marketing initiatives welcomed. **Ref: 478920**

EMPLOYEE INCENTIVES £64,000

This is one of the leading specialist employee incentives teams in the City, sitting at the top of the rankings with a number of renowned lawyers. It is currently looking for a lawyer to work in this fun, supportive team. **Ref: 569700**

CONSTRUCTION £50,000

A truly fantastic opportunity to work with this highly-regarded West End firm. The construction department can offer top quality predominantly non-contentious work to strong candidates of all levels. Good prospects. **Ref: 542490**

PROPERTY FINANCE £74,000-£85,000

This leading City firm seeks a real estate finance lawyer with experience on the property funds/finance side. Top quality deal flow and competitive top-tier salary package and excellent future career prospects. **Ref: 391070**

CORPORATE £72,000+

Are you craving involvement in international corporate deals with London clients? This premier corporate practice is offering Irish corporate lawyers a chance to join its leading practice. Great package and excellent prospects. **Ref: 365750**

BANKING £82,000

This leading US firm in London boasts one of the leading banking practices in the European and US market. It is currently looking for strong Irish banking lawyers to join its team. Mid-Atlantic rates. **Ref: 324810**

CORPORATE £68,000

This first rate City firm is looking for Irish corporate lawyers who are commercially driven with demonstrable expertise in and enthusiasm for corporate work. Excellent and genuine career prospects. **Ref: 295150**

COMM LITIGATION £65,000+

A brilliant opportunity has arisen for a talented commercial litigator/arbitrator to join this highly-regarded City firm. Top quality work in a supportive environment and good work/life balance on offer. Excellent prospects. **Ref: 532540**

PENSIONS £66,000+

This City firm has recently recruited a personable and enthusiastic partner to lead its pensions practice. Excellent prospects and the chance to work on a range of matters. Rare opportunity not to be missed. **Ref: 377630**

INS LITIGATION £62,000+

Leading insurance firm seeks litigators with experience in insurance sector or interest in developing insurance/reinsurance specialism. Top-tier work, excellent training and City rates on offer. **Ref: 518790**

FUNDS £60,000+

Top-tier City firm with balanced approach to work/life balance with collegiate working environment seeks funds lawyer with transactional experience. Rare option for home/flexible working if required. **Ref: 541430**

PROJECTS £70,000+

Magic Circle firm with a market-leading projects practice. Assistants undertake a blend of headline domestic and international work. Looking to fly down Irish lawyers over the coming month for interview. **Ref: 4139001**



Erica
MacKinnon

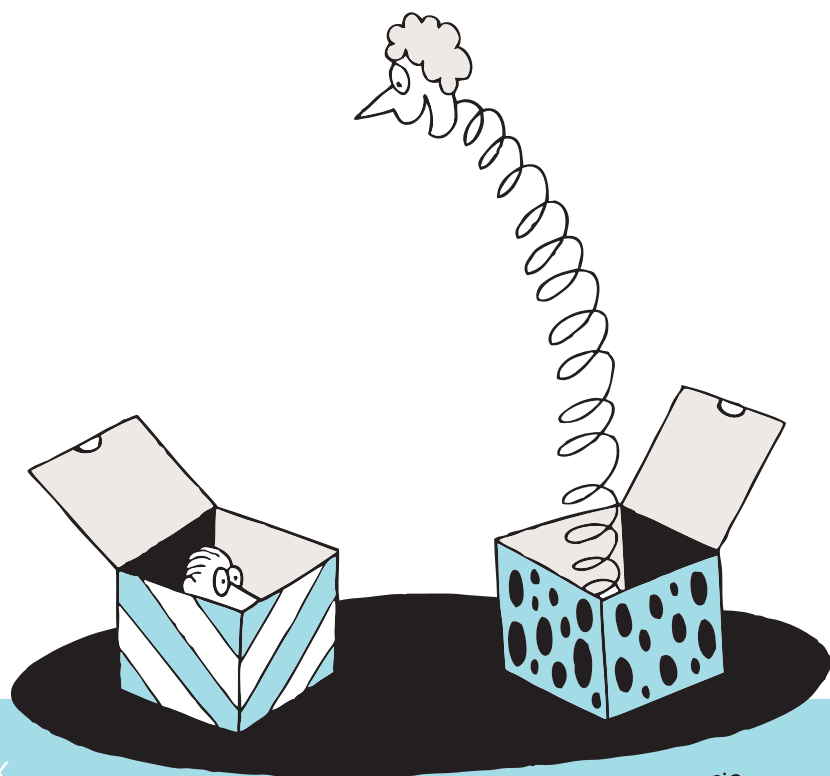
Alex
MacKenzie

Contact Erica MacKinnon or Alex MacKenzie
on +44 (0)131 226 0640.
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BANKING AND FINANCE

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- General Corporate Finance
- Securitisation
- Tax

Our partners will be visiting the UK from 19-23 November for interviews.

To find out more, please contact our consultant Erica Mackinnon on +44 (0)131 226 0640 at Taylor Root or email ericamackinnon@taylorroot.com

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Where will the future take you?

Dublin Practice

Corporate Solicitor

€80,000 - €105,000

Our client is a highly reputable and leading law firm based in the city centre. They are currently seeking to expand their busy corporate department. The successful candidate will be involved in all aspects of corporate and commercial law. The main responsibility involves advising both Irish and international public and private companies in relation to a broad range of corporate transactional and advisory work. Ref: 33756

Banking Solicitor

€85,000

Our well respected client is now seeking to recruit an ambitious Banking Solicitor with solid experience. The ideal candidate will be experienced in property based lending, general asset & tax based finance and corporate/commercial lending. The successful individual will have strong business acumen and excellent client communication skills. This is an outstanding opportunity for an articulate professional who is looking for a challenging position. Ref: 18179

IP Lawyer - Contentious

€72,000 - €85,000

Our client is one of Ireland's leading IP groups. They are currently seeking to employ an experienced IP Litigator to join their team. The ideal professional will have solid experience working in trade mark infringement & passing off actions, patent infringement, patent opposition proceedings and copyright & design infringement matters. This position offers the successful candidate an excellent opportunity with a clear career path. Ref: 33245

Qualified Solicitors

€55,000 - €60,000

One of Ireland's premier law firms seeks to appoint qualified Solicitors from various backgrounds to join their team. Must have the drive and ambition to succeed in a corporate environment and ideally have experience in commercial law. This is a superb opportunity to build a profile with one of the most highly regarded law firms in Dublin. Excellent salary and package on offer along with strong prospects. Ref: 16638

Dublin In-House

Transaction Lawyer - In-House

€85,000

This is a superb opportunity for a Solicitor to join a leading European bank in Luxembourg. The ideal professional will be an experienced Lawyer with a specialisation in financial services or tax. Comprehensive knowledge of the set-up and the administration of corporate and other structured investment products would be a distinct advantage. Must have strong project management and communication skills. Ref: 32564

Legal Advisor

€70,000

Qualified Solicitor required to join a leading bank as legal advisor. The successful candidate will advise in legal related services to corporate banking business including advising management and businesses on the application of legal, regulatory and group policy requirements to corporate banking business and assist with the preparation, drafting and implementation of added value projects for corporate banking business. Ref: 32835

Investment Banking Legal Officer

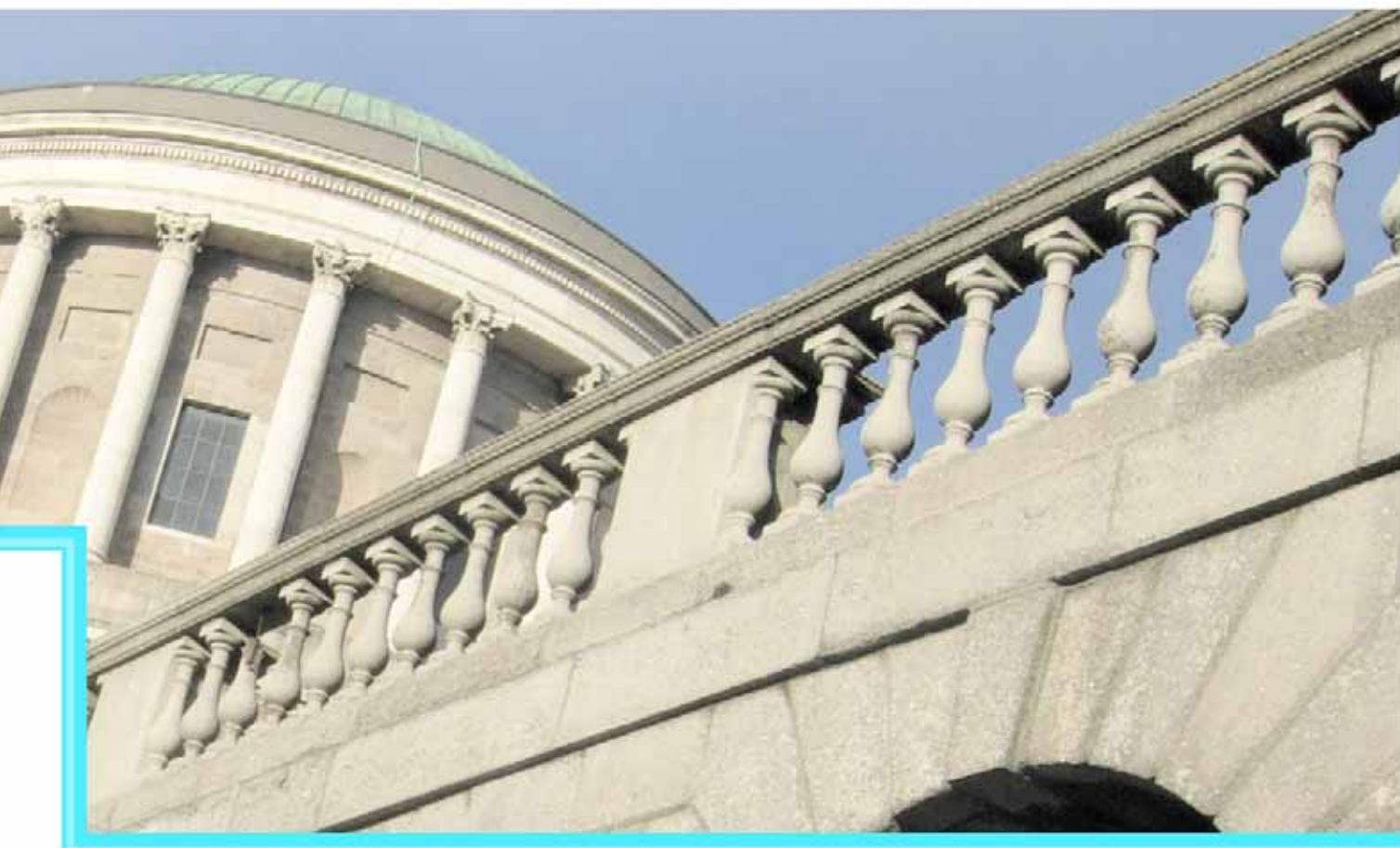
€65,000 - €75,000

Our client is one of Europe's leading banks. They are currently looking for a qualified Solicitor to support the structured credit desk in the execution of complex credit derivative and securitisation transactions. The successful candidate will provide legal support to the structured credit desk of the bank and co-ordinate the execution of legal documentation for all transactions. This is an exciting opportunity for the right candidate. Ref: 30451

In-House Lawyer

€55,000 - €65,000

Our highly regarded client is looking for a Solicitor/Barrister with solid experience working within the commercial department of a law firm or in-house. Some cross border and/or asset finance or banking experience would be an advantage but not essential. The successful individual will assist the CLO in providing general assistance and support on day-to-day matters, special projects and strategic initiatives. Ref: 27557



Connaught/Munster

Corporate Lawyer - Practice

€100,000+

Our client, located in Galway city, seeks a solicitor for their corporate practice. This team has carved out a reputation for providing a high standard of legal advice to an expanding list of clients ranging from financial institutions, SMEs, start-up companies, multi-nationals and public bodies. Must have extensive experience in business law. This is a key appointment within this reputable firm and offers a clear path to progression. Ref: 31149

Commercial Property - Practice

€65,000 - €95,000

Our client is a dynamic medium sized firm based in Cork city with a reputation for providing high standard legal advice to a well established client base (predominantly in the SME market). The successful candidate can look forward to practicing in a firm with early responsibility where there is clear opportunity to carve out a significant career. The ideal candidate will have a wealth of experience in commercial property. Tax experience also an advantage. Ref: 31024

Commercial Solicitor - Practice

€55,000 - €70,000

Our client, based in Cork city, provides a prompt, efficient, high quality legal service with commercial law central to their strategy. They now seek a Solicitor with solid commercial experience for their expanding team. The ideal candidate will have trained in a renowned commercially focused firm. A superb opportunity to work on high profile complex cases and provide general commercial advice to large, well known clients. Rapid progression is expected. Ref: 12971

Opportunities in Galway - Practice €55,000 - €100,000+

A large and prosperous firm in Galway are looking to expand their legal team by providing specialist legal advice to a growing commercial client base. They are currently seeking ambitious individuals who are ready for a challenging position. Candidates with a genuine interest and proven expertise in the areas of tax, corporate/commercial law, employment and commercial property law are sought to grow and develop this burgeoning team. Ref: 33891

General Practice Solicitor - Practice

€65,000 - €80,000

Cork city firm seeks a general practice Solicitor to join their expanding team. This firm covers conveyancing, family law, commercial law and litigation. Must have a good academic background with strong people skills to maintain a good working relationship with clients. Candidates with a range of experience in conveyancing and civil litigation in the District and Circuit Courts who are interested in progressing their career are advised to apply for this opportunity. Ref: 31561

Litigation Solicitor - Practice

€Negotiable

Our client, a modern practice located in the north west of the Midlands, currently seeks to recruit a Litigation Solicitor who will work with District, Circuit and High Court files. This would suit an ambitious Solicitor anxious to make a move out of Dublin but keen to pursue a varied and challenging Litigation career. This role offers a wide variety of Litigation experience and also provides a clear and focused career path for the right candidate. Ref: 34079



outstanding legal opportunities

In-House

Senior Legal Counsel

Dublin €150k + Bonus and Benefits

Our client is a new and exciting start up aerospace leasing company. Reporting to the CEO, the Senior Legal Counsel will have overall responsibility for all legal matters relating to aircraft leasing and financing, including drafting, review and negotiation of lease agreements. The successful candidate will also be responsible for consulting and coordinating with outside counsel, local counsel, tax counsel and other professionals concerning the operation of the business. Ref: JO728791

In-House Solicitor

Dublin €100k

The Corporate Banking division of a major bank wishes to recruit a Solicitor. The Division is a substantial and complex business incorporating relationship management, acquisition finance, specialised finance, project finance and property as well as support functions such as credit, HR, IT, finance, loans admin and marketing. The role would offer an excellent opportunity for a Solicitor working in Practice who is looking to move into a diverse commercial role where they would have exposure across a wide range of business units. Ref: JO7071677

Senior Commercial Lawyer

Dublin €80k

A highly successful global telecommunications organisation wishes to recruit a solicitor who will play a key role in their professional and supportive commercial team. The role offers an exceptional opportunity to develop a highly challenging and rewarding in-house career. The successful candidate will be required to provide legal advice on the full range of commercial issues arising in a large hi-tech telecommunications company including advice on general commercial, competition, data protection, consumer law and regulatory issues. Ref: JO725700

Interested candidates should forward their Curriculum Vitae in the strictest of confidence to Claire Dunwoody at claire.dunwoody@robertwalters.com or call + 353 (0) 1 633 4111.

These are just a selection of legal roles we have on offer at the moment, to view a comprehensive list of current opportunities visit our website www.robertwalters.ie or call our specialist team today on + 353 (0) 1 633 4111. Robert Walters, Riverview House, 21-23 City Quay, Dublin 2.

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Private Practice

Commercial Solicitor

Dublin €75-95k

This very well established city centre commercial law firm requires a Corporate Solicitor to join their expanding boutique practice. The position involves an element of commercial property law as well as the sale and acquisition of companies and other commercial properties throughout Ireland and the UK. A solid background in corporate law is necessary and ideally the selected candidate will have experience working in a large commercial firm. Any financial services law experience is an added advantage. This is an excellent opportunity for an experienced Solicitor to join this distinguished commercial firm. **Ref: JO599890**

Medical Negligence Solicitor

Dublin €75-85k

A leading Dublin law firm urgently requires a Litigation Solicitor to join its well established and highly renowned Healthcare Group. This is an outstanding opportunity for an experienced individual to join one of Ireland's best law firms. The role will be broad ranging but will include working closely within a team on high profile medical negligence claims, providing consultative and advisory services to medical device manufacturers as well as dealing with product liability. Previous relevant experience is essential. **Ref: JO726960**

Employment Lawyer

Galway €60-80k

This highly reputable law firm has an opening for an experienced Employment Lawyer for their expanding Galway City office. Candidates with previous exposure to a commercial law environment will have an added advantage. A solid understanding of general employment law is required and the position will involve drafting documentation and advising clients in relation to contracts of employment, employee policies and procedures, unfair dismissal and redundancies, employment equality and industrial relations disputes. Salary will be above the market rate for the West of Ireland. **Ref: JO606580**

IT/IP Solicitor

Dublin €70-90k

An exceptional opportunity exists within a 'Top Five' firm for a qualified Solicitor with IT/IP experience. This is a unique opening within a highly prestigious firm. Candidates are expected to have a good knowledge of copyright law, data protection and be able to work within a fast paced corporate environment. The ability to negotiate and draft contracts as well as other documentation in relation to all IT and e-commerce matters is required. This position offers the selected individual the chance to work alongside some of the country's leading IT/IP lawyers. Excellent remuneration package on offer. **Ref: JO726950**

Commercial Property Solicitor

Galway €65-85k

A leading law firm seeks an experienced Commercial Property Solicitor for their office in Galway City. This thriving and well established firm will require the successful candidate to advise clients on all forms of commercial property transactions, including property development projects, planning issues, property disputes, tax incentives and retail and commercial investments. This is an outstanding opportunity to join one of Ireland's leading law firms. Ideally this will suit a Dublin or London based Solicitor looking to relocate to the West of Ireland. It offers the individual a chance to bring your expertise to a rapidly growing commercial market. **Ref: JO591870**

Commercial Solicitor

Cork €60-80k

A position within the commercial department of a major Cork City practice has become available. The job will involve working with both domestic and international clients on high profile and complex cases, advising on a wide range of issues from M&A and inward investment to e-commerce and outsourcing. The selected candidate will be exposed to high level corporate transactions, finance and commercial matters including start-ups, joint ventures and shareholder disputes as well as franchising and distribution agreements. **Ref: JO727020**

Interested candidates should forward their Curriculum Vitae in the strictest of confidence to Greg Rogers at greg.rogers@robertwalters.com or call + 353 (0) 1 633 4111.

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Tax Dublin

Our client's Tax Department has won many awards most notably Tax Law Firm of the Year. Currently they are looking to recruit a tax specialist to advise on corporate taxation aspects of inward investment projects, structured finance transactions, mergers and acquisitions, real estate investments and taxation litigation. The work is of the highest order and only gifted, energetic lawyers looking for the best career prospects and long term stability should apply. (ref: 16398/4)

Tax Dublin

One of Ireland's leading law firms with an international reach and influence is seeking to appoint a Corporate Tax Solicitor to its award winning team. The work is for the highest calibre of clients and previous experience of handling strategic blue chip advisory work is paramount. Significant client contact from day one and a structured career path mark this opportunity out in the current market. (ref: 15950/28)

Intellectual Property Dublin

Our client is an established corporate heavyweight (Legal 500) currently looking to recruit an IT/Intellectual Property specialist. You will work closely with the corporate team developing/implementing a strategy for expansion and experience in all of the above would be a distinct advantage. This leading player's client base stretches far and wide and includes: biotech, financial, software and manufacturing multinationals. (ref: 15613/11)

Intellectual Property Dublin

Working as part of the Corporate / Commercial team you will be advising on the full range of Intellectual Property law, including contentious and non-contentious matters and the prevention of all hard and soft issues. In particular the department has a significant number of IT / software based clients and the role would have a bent towards Information Technology Law. Excellent salary, bonus and package on offer. (ref: 15866/18)

Employment Dublin

Opportunities in Employment Law like this are few and far between. Blue chip clients as well as SME's, OMB's, Public Sector and entrepreneurs. Mainstream employment work both contentious and non-contentious. Advice covers TUPE, redundancy, health and safety, contract drafting and policy advice. This is a terrific opportunity to get in with a leading player carrying out quality as well as cutting edge work. Excellent package and benefits. (ref: 15950/33)

Trusts and Estates Dublin

Our client provides specialist legal and taxation advice to a broad range of private, institutional and commercial clients on trusts and estates both domestic and internationally. Currently they are looking to recruit a lawyer with a range of skills, possibly AITI qualified, to work alongside their existing legal 500 team. High value prestigious work in commercial surroundings coupled with first class training and support. (ref: 15866/1)

In House (Software)

Our client is one of the fastest growing software companies in the World. With a turnover approaching \$40 billion they provide tailored software solutions to leading multi-nationals across the globe. Currently they are looking to recruit an experienced Solicitor with exceptional commercial contracts exposure. Outstanding prospects for the right candidate. Would suit someone looking for a new challenge from either an In house or private practice background. (ref: 19865/1)

PFI Projects Dublin

Team advises a range of public and local authorities, private sector developers, contractors and designers in relation to all aspects of construction and engineering. Current team has been involved in many of the major infrastructural developments in Ireland in recent years. They work closely with the dispute resolution team in respect of construction disputes requiring Arbitration, Conciliation and other dispute resolution mechanisms. (ref: 15709/1)

Ireland

Property Dublin

Our client is a leading commercial practice based in the heart Dublin. They require a UK/Irish Lawyer to handle a range of residential property transactions in the UK for Irish based clients. They act for a variety of Irish investors/institutions/brokers and high net worth individuals, purchasing/selling leasehold and freehold residential properties. Full support will be given with regards to case-management systems and support staff. Experience in UK litigation would be an advantage as would Banking law. (ref:18062/9)

EU Competition Dublin

Our client is the market leader in Ireland specialising in EU, competition and anti-trust law. They possess an international and established client lists servicing both the private and public sectors. There are two roles available with both opportunities representing a challenge coupled with exceptional support and long term prospects. Package is guaranteed to include an excellent basic salary, bonus and benefits package. (ref: 15950/34)

IT Dublin

Established heavyweight requires IT specialist. You will have gained experienced preferably with a leading Irish practice and be looking for a new challenge with one of Dublin's most prestigious law firms. Role presents rare opportunity for a lawyer, possibly with a Legal 500 recommendation, to join an outstanding department that has an existing client base and first class support. Excellent career prospects and package (to include substantial bonuses and benefits scheme). (ref: 159/35)

IT/IP Dublin

Well regarded practice outside the Big Five requires IT/Intellectual Property specialist with strong leadership skills, used to advising public and private sector clients on a range of related issues. Firm undertakes a lot of work within the media and entertainment industry and somebody with a flair for marketing, coupled with excellent client care skills, would have a distinct advantage. Varied, challenging client base/role, presenting an excellent opportunity for a talented lawyer. (ref: 16233/7)

Dublin Office

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Out of Office Hours Paul Wingfield +353 (0)1 619 0400

Offices also in Birmingham • Brighton • Bristol • Edinburgh • Glasgow • Leeds • London • Manchester



† 01 619 0400

Corporate, Funds & Financial Services † 01 619 0400

Defence Litigation Limerick

Acting for major insurance companies this role presents an exciting opportunity to handle personal injury and medical negligence claims. The department comprises of a handful of people working in a supportive team environment, with state of the art surroundings and a first class client base. Experienced gained in other major legal centres would be an advantage but is not essential. Package and long term career prospects exceptional. (ref: 15879/1)

General Practice Wexford

Our client, a regional general practice based in Wexford is looking to add an experienced general practitioner to its practice in accordance with its plans for expansion. The ideal candidate will have a varied general practice background with a proven track record in conveyancing, litigation, probate and family. This is an excellent opportunity to join a leading practice with good career prospects. (ref: 16876/1)

General Practice Wexford

Our client, a renowned firm in Wexford are looking to add a solicitor to its growing general practice. Ideal candidate will have a proven track record in matters of residential and commercial conveyancing, chancery and probate. Must be able to handle a large caseload and able to work on own initiative. This is a great opportunity to join a vibrant office with excellent career prospects where your hard work will be rewarded. Salary and benefits are commensurate with experience. (ref: 16880/1)

Property Galway

General practice based in Galway, require experienced lawyer that can handle residential and commercial transactions. Caseload to include: sales, purchases, re-mortgages, acquisitions and disposals for local businesses, private individuals, investors and developers. Candidates looking for more commercial experience would be considered. Strong IT skills desirable, interpersonal skills, commitment to the geographical area and the long term development of the practice essential. (ref: 17453/1)

Banking Dublin

The banking and financial services team of this widely regarded law firm has an enviable client list that reads like the "Who's Who" of the Banking and Corporate Finance world. The team is one of the largest outside London. You will be actively encouraged to have a 'hands on' approach with clients from a very early stage. Work will involve advising domestic and international banks, securitisation, structures finance, asset finance and corporate banking. (ref: 15950/33)

Corporate Dublin

Exceptional opportunity for an English/Irish qualified lawyer looking for an exciting/challenging role in Dublin. Big ticket work in fantastic commercial surroundings. Candidates must have excellent academics, sound commercial acumen and be used to handling high value transactional work. (ref: 17947/9)

Corporate Dublin

Leading commercial player requires corporate/M&A lawyer for its thriving practice. This lead role presents a rare opportunity to head/develop an established team. The ideal candidate will have local knowledge, marketing skills, and the desire to lead a team and build a department. Big ticket work handling a variety of entrepreneurs and established PLC's from the technology, finance and property sectors. Partnership prospects. (ref: 18187/3)

Corporate Dublin

Our client, a corporate specialist has a number of opportunities available for academically strong, dynamic and ambitious lawyers. They handle work in both the public and private sectors for many household names. Transactions frequently have a substantial international dimension and include: corporate finance, mergers and acquisitions, venture capital/private equity transactions and a wide range of corporate restructurings. (ref: 16398/1)

Corporate Dublin

A leading Dublin firm requires a Corporate Solicitor to join their expanding commercial team. The successful candidate will be Irish/English qualified and be a pro-active self starter able to work efficiently alone or in a team. Candidates must have experience of mergers & acquisitions, share purchase agreements and joint ventures, share purchase and business transfers. En enviable list of clients to include government agencies and multi-nationals. (ref: 15616/4)

Financial Services

Our client's financial services team has grown substantially over the past few years. Currently they require a lawyer with experience of advising a wide range of clients to include: financial institutions, fund promoters and service providers, regulators and domestic and international corporations. The department as a whole also advises on all aspects of corporate lending, acquisition/project/property/construction and asset finance. (ref: 16238/3)

Funds Dublin

Funds department with an established reputation require a funds specialist with drive and commercial acumen to add to its existing team. Experience in setting up and servicing investment funds in Ireland for international and domestic clients, advising investment managers, custodians, administrators and other service providers of investment funds on establishing operations in Ireland essential. Regulatory experience in relation to cross-border investment fund mergers and acquisitions is also required. (ref: 15866/16)

Funds

Prestigious medium size law firm require experienced lawyers to join Ireland's leading and largest Financial Services practice. The practice is renowned worldwide and advises many household names in the financial services industry. They advise a wide range of clients including brokers, dealers, fund administrators and the FSRA on a wide range of international financial services. Experience of international financial services law is essential. Fantastic career prospects and an excellent remuneration package on offer. (ref: 15727/1)

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Deputy General Counsel, Dublin €Excellent

Our client, a leading corporate institution, require a deputy general counsel to join their expanding team. You will have corporate/commercial experience from a leading law firm or in-house organisation with particular exposure to company law, contract, commercial, Trust, EU law and Regulation. Drafting and contract negotiation skills a must.

Ref: 17479

Legal Manager, Dublin €90k plus

Our client, one of the worlds largest privately owned commercial aircraft leasing organisation require a legal manager. Reporting to the CEO, the role will concentrate on lease related matters. It will involve the project management of lease, sale and purchase transactions as well as managing compliance issues. You will have excellent legal and commercial abilities with a flexibility and willingness to travel.

Ref: 17131

In-house Comm Prop Lawyer, Dublin €Negotiable

Our client a leading property developer require an associate lawyer to join the team. Reporting to the Head of Legal, you will get involved in complex commercial property transactions and advise on commercial leases, property development and investment and planning law. Most importantly, you will be energetic with aspirations to play an integral part in shaping the development of the team.

Ref: 17687

Commercial litigation, Dublin €80k plus

The commercial litigation unit of this firm requires an experienced litigator. You will advise on high value contractual and tortious disputes, both with domestic and international components. You will advise on all aspects of corporate restructuring and insolvency law matters. Ideally you will general commercial litigation experience with a particular focus on dispute resolution.

Ref: 16261

Corporate/Banking, Dublin €Negotiable

Our client, with a strong domestic and international focus are looking to recruit corporate and banking lawyers at associate level. You will have gained experience from a mid size or leading firm. Most importantly you will have the desire to develop your career with a leading corporate. Highly attractive salary to attract the best candidates.

Ref: 17840

Commercial Property, Dublin €85k plus

Our client is a boutique firm with an excellent reputation among its clients. They are looking to recruit a commercial property lawyer at associate level. Experience in residential and commercial development, leases, tax, lending and landlord is desirable. Excellent opportunity for career progression within a growing practice.

Ref: 16262

Please contact: Portia White Tel: +353 (0) 1 477 3063 Email: portia@lauresims.com

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One of the world's leading IT companies, Hewlett Packard operates in more than 170 countries serving nearly one billion customers from small to medium businesses to data centres and large global enterprises.

As part of its growth strategy, HP is now seeking a commercial lawyer to join its highly regarded in-house legal team. Working closely with country and regional management, you will be involved in a wide range of activities across multiple jurisdictions including drafting and negotiating commercial contracts, providing general legal advice and supporting business initiatives.

Already working at commercial associate level you should have exposure to the IT sector and strong drafting and contract negotiation skills. Experience in data protection, employment, regulatory and compliance issues would also be an advantage. Self-confident and with good inter-personal skills, you will display the ability to work both independently and as part of a close-knit team.

This is an excellent opportunity to work in a dynamic environment and the company is offering a highly attractive salary and benefits package to attract the best candidate.

To hear more, please contact Portia White at Laurence Simons International on +353 1 4773063 or e-mail Portia@lauresims.com

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